



Tunisia: Query response on the situation and treatment of the LGBTQI+ community

August 2023 (COI between 1st January 2020 and 31st July 2023)

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A. Explanatory Note

Background

This report presents Country of Origin Information (COI) on Tunisia focusing on issues identified to be of relevance in refugee status determination for Tunisian nationals of the LGBTQI+ community.

The COI presented in this report is illustrative but not exhaustive of the information available in the public domain, nor is it determinative of any individual human rights or asylum claim. All sources are publicly available and a direct hyperlink has been provided.

In this report, ARC has complemented its research on English-speaking sources with French-speaking sources. Relevant sources have been unofficially translated and are described as such. **Please note that these are not official translations.**

A list of sources and databases consulted is also provided in this report, to enable users to conduct further research and source assessments. Research concentrated on events that took place between 1st January 2020 and 31st July 2023. All sources included in this report were accessed between May and early August 2023.

Disclaimer

This document is intended to be used as a tool to help to identify relevant COI and the COI referred to in this report can be considered by decision makers in assessing asylum applications and appeals. While we strive to be as comprehensive as possible, no amount of research can ever provide an exhaustive picture of the situation. It is therefore important to note that the absence of information should not be taken as evidence that an issue, incident or violation does not exist. **This report is also not a substitute for individualised case-specific research and therefore this document should not be submitted in isolation as evidence to refugee decision-making authorities.** Whilst every attempt has been made to ensure accuracy, the authors accept no responsibility for any errors included in this report.

B. List of Sources

Not all of the sources listed here have been consulted for each issue addressed in the report. Additional sources to those individually listed were consulted via database searches. This non-exhaustive list is intended to assist in further case-specific research. To find out more about an organisation, view the 'About us' tab of a source's website.

Note that we were commissioned to search for both English and French-speaking sources.

Databases

[Asylos's Research Notes](#) [subscription only]

[EUAA COI Portal](#)

[European Country of Origin Information Network \(ECOI\)](#)

[Immigration and Refugee Board of Canada – Responses to Information Requests](#)

[Relief Web](#)

[UNHCR Refworld](#)

Media

[African Arguments](#)

[All Africa](#)

[Al Jazeera](#)

[Courrier International](#)

[The East African](#)

[Edge Media Network](#)

[Equal Eyes](#)

[Euronews](#)

[France24](#)

[Global Gayz](#)

[Libération](#)

[The Guardian](#)

[Inter Press Service](#)

[The New Humanitarian \(Africa\)](#)

[Reuters](#)

[Rights Africa](#)

[Pink News](#)

Sources

[76 Crimes](#)

[Afro Barometer](#)

[Africa Center for Strategic Studies](#)

[African Human Rights Coalition](#)

[African Studies Centre Leiden](#)

[Amnesty International](#) (Tunisia)

[Article 19](#)

[Bertelsmann Stiftung – BTI Transformation Index](#)

[Cairo Institute for Human Rights](#)

[CIVICUS](#)
[Civil Rights Defenders](#)
[Commonwealth Equality Network](#)
[EASO's List of sources in its report 'Researching the situation of lesbian, gay, and bisexual persons \(LGBT\) in countries of origin'](#)
[Equal Rights Trust](#)
[EuroMed Rights](#)
[Freedom House](#) (Tunisia)
[Forum Tunisien pour les Droits Economiques et Sociaux \(FTDES\)](#)
[Frontline Defenders](#)
[Global Action for Trans Equality \(GATE\)](#)
[Human Dignity Trust](#) (Tunisia)
[Human Rights Watch](#) (Tunisia)
[Institute for Human Rights and Development in Africa](#)
[International Bar Association](#)
[International Centre for Prison Studies](#)
[International Commission of Jurists](#)
[International Federation for Human Rights](#) (Africa)
[International Lesbian, Gay, Bisexual and Trans and Intersex Association \(ILGA\)](#)
[ILGA Database](#)
[International Service for Human Rights](#)
[InterPride](#)
[Kaleidoscope Trust](#)
[Middle East Institute \(MEI\)](#)
[Minority Rights Group International \(MRG\)](#)
[Organization for Refuge, Asylum & Migration \(ORAM\)](#)
[Out Right International](#)
[Project on Middle East Democracy \(Promed\)](#) (Tunisia)
[Sexual Rights Initiative](#)
[United Nations Committee Against Torture](#)
[United Nations Committee on Economic, Social and Cultural Rights](#)
[United Nations Committee on the Elimination of Discrimination Against Women](#)
[United Nations Independent Expert on sexual orientation and gender identity](#)
[United Nations News Centre](#)
[United Nations Office of the High Commissioner for Human Rights \(OHCHR\)](#) (Tunisia)
[United Nations Population Fund](#)
[United Nations Secretary General reports](#)
[United Nations Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context](#)
[United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions](#)
[United Nations Special Rapporteur on extreme poverty and human rights](#)
[United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#)
[United Nations Special Rapporteur on the right to education](#)
[United Nations Special Rapporteur on the situation of human rights defenders](#)
[United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment](#)
[United Nations Special Rapporteur on violence against women, its causes and consequences](#)

[United Nations Women](#)

United States Department of State [\(Annual human rights reports\)](#)

I. Legal framework

a. Legislation

i. Constitution

In February 2021, Human Rights Watch (HRW) reported on Tunisian police arresting and using violence against LGBTI activists during civilian protests that began in many regions of Tunisia in January 2021, sparked by declining economic conditions and exacerbated by the pandemic:

Tunisia's Legal Obligations

Tunisia's continued crackdown against activists violates their basic rights, including their right to privacy, bodily integrity, free movement, free expression, assembly, and association, including on the internet, as well as their right to nondiscrimination and protection under the law. The abuses violate Tunisia's constitution and international treaties to which Tunisia is a party.

Article 37 of the Tunisian Constitution from 2014 guarantees the right to "assembly and peaceful demonstration," also protected by the International Covenant on Civil and Political Rights, the African Charter on Human and People's Rights, and the Arab Charter of Human Rights, to which Tunisia is a state party.

The constitution allows for a lawyer to be present during interrogations and requires taking detainees before a prosecutor within 48 hours, immediately informing them of the reason for their arrest, and allowing them to contact a lawyer and family member. The constitution also prohibits "mental and physical torture."

The right to privacy and nondiscrimination are reflected in Tunisia's 2014 constitution. Article 24 obligates the government to protect the rights to privacy and the inviolability of the home. Article 21 provides that "All citizens, male and female, have equal rights and duties, and are equal before the law without any discrimination."¹

In August 2021 the Institute for War and Peace Reporting (IWPR) published an article by journalist Asma Ajroudi about the demonstrations that followed Tunisia president Kais Saied's July 2021 announcement to dismiss the prime minister, suspend parliament and assume new powers:

While the potential for state-imposed restrictions is worrying, there is an under-reported, pre-existing atmosphere of hostility toward rights activists and the media among segments of society that could escalate under a period of political uncertainty. A wave of grassroots animosity toward social progressives and alternative voices (impacting LGBTQ individuals particularly) has manifested in public and online harassment and even local-level police action.²

In an article originally published in October 2021 in French in the newspaper *Le Monde*, Amnesty International's Deputy Regional Director for Middle East and North Africa Amna Guellali wrote about Tunisia's president intent to carve up the constitution:

¹ Human Rights Watch (HRW), [Tunisia: Police Arrest, Use Violence Against LGBTI Activists](#), 23 February 2021

² Institute for War and Peace Reporting (IWPR)/Asma Ajroudi, [Ten Years on From Revolution, Tunisia in Uncharted Waters](#), 5 August 2021

The President would now like to replace the Constitution – which is certainly imperfect but incorporates essential rights – with new texts that are likely to challenge a number of its achievements. They would represent a shift from the democratic space that gave rise to the 2014 Constitution to technocratic opacity, on the pretext of getting rid of the unnecessary “red tape” that has ended up paralyzing the State institutions.

Despite the deceptively reassuring tone of the presidential decree with regard to guaranteeing “public and individual rights and freedoms”, Kaïs Saïed’s conception of human rights is neither reassuring in speech nor in practice. As a candidate, he opposed gender equality in inheritance, citing sharia law. He has also spoken out in favour of criminalizing homosexuality, calling homosexuals “deviants” and labelling the associations that defend them the puppets of foreign forces wanting to change Tunisian society. As president, he defended the retention of the death penalty and reaffirmed his opposition to equal inheritance.

Since declaring a state of emergency, the President has resorted to abusive restrictions on freedom of movement. On the pretext of fighting corruption, he has placed dozens of public figures under indefinite and arbitrary house arrest, and he made clear his desire to take control of the judiciary by declaring, on the evening of 25 July, that he would personally preside over the Public Prosecutor’s Office in certain cases, although he did later retract this statement. This rhetoric and these practices therefore bear the seeds of a denial of rights and freedoms, and this represents a real threat to Tunisia.³

The online media Rights Africa has published an article in November 2022 reporting an opinion issued by a high court in Tunisia about the country’s anti-homosexuality law:

A high court in Tunisia has issued an opinion that the country’s anti-homosexuality law is unconstitutional. The law will remain on the books unless it is overturned by Tunisia’s Constitutional Court, but any defendants charged under the anti-homosexuality law, Article 230, can cite the new opinion from the Court of Cassation in their defense.

Mounir Baatour, founder of the Tunisian LGBTQ rights organization Shams, explained the situation:

“Article 230 remains in force, but what has changed is that now any defendant who is tried under Article 230 can cite the ruling of the Court of Cassation to the court before which he is tried. ... There is a great chance that people will be acquitted of charges of homosexuality because the Court of Cassation has undercut Article 230.

The opinion from the Tunisian Court of Cassation came in the case of a gay man, M.R., who was charged with violating Article 230 after he complained to police that he had been raped by his former boyfriend.

The court stated that it considers Article 230 to be contrary to international treaties and to the Tunisian Constitution, newly adopted on July 25.⁴

The Human Dignity Trust also reported about this ruling of the Tunisian Court of Cassation in their online section about law and legal developments in Tunisia:

³ Amnesty International (AI), [Tunisia : Carving up the Constitution represents a threat to human rights](#), 5 October 2021

⁴ Rights Africa, [Tunisia : A high court says anti-gay law is unconstitutional](#), 2 November 2022

In December [2022] Tunisia's highest court (the Court of Cassation) ruled that the prosecution of a LGBT activist was "null and void." The man, along with five others, had originally been charged in 2015 under Article 230 of the penal code which criminalises same-sex activity.⁵

ii. Criminal Code

According to the Human Dignity Trust (HDT), in Tunisia:

Same-sex sexual activity is prohibited under the Penal Code 1913, which criminalises acts of 'sodomy'. This provision carries a maximum penalty of three years' imprisonment. Both men and women are criminalised under this law.

Tunisia adopted the 'sodomy' provision in its 1913 Penal Code, which is still in force today (subject to amendments). Tunisia was at the time a protectorate state of France, however France had long since decriminalised same-sex sexual activity. As such the criminalising law is of local origin.⁶

In May 2020, Minority Rights Group International (MRG) published a report analysing data collected by Tunisian NGOs in several local "anti-discrimination points". Using an online translation tool, [deepl.com](https://www.deepl.com/), the following information was translated from French into English:

The Tunisian Criminal Code was promulgated during the period of the French protectorate by decree on 9 July 1913. Although it has been amended several times, notably in 2005 and 2011, it still contains discriminatory provisions.

These prevent the exercise of certain freedoms, particularly individual freedoms. Often, exercising one's freedom of conscience and expressing one's areligious convictions can be perceived not only as a nuisance to public order or morality (121 ter Penal Code), but also as a deliberate attempt to embarrass others in a way that offends modesty (226 bis Penal Code).[...]

Similarly, articles 226 and 226 bis of the Penal Code condemn "offences" based on vague and undefined notions such as "indecent assault", "indecent assault" and "offence against morality", which leads to the arrest and punishment of people on the basis of their free choice of behaviour, expression and conduct. choice of behaviour, expression and appearance.

These articles are often used to condemn the expression of gender identity, as in the case of transgender or non-binary people, for example. The mere fact of wearing make-up and nail varnish can displease the police and lead to arrests on the grounds of indecency and public decency.

In addition, article 230 of the Penal Code punishes homosexuality, which poses a threat to the privacy of people of their sexuality, identities or gender expressions. This article has become a de facto weapon of repression for the police, who can even in the absence of any sexual relationship between persons of the same sex, can use other clues, such as searching the suspect's phone or computer. At the same time, the authorities are using a means of evidence that is considered illegal and unscientific - anal examination - because it violates the physical integrity of the suspect.⁷

⁵ Human Dignity Trust (HDT), [Tunisia – Summary](#), no date [Last accessed: 03 August 2023]

⁶ Human Dignity Trust (HDT), [Tunisia – Summary](#), no date [Last accessed: 03 August 2023]

⁷ Minority Rights Group International (MRG), [Report analysing data on cases of discrimination collected by the Anti-Discrimination Points](#), May 2021, p. 8 [Rapport d'analyse des données sur les cas de discrimination récoltés par les points Anti-Discrimination]

In December 2020, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) wrote in its annual report on the rights of homosexuals and the criminalisation of homosexual acts across the globe that in Tunisia, 'Article 230 of the Penal Code (2010) prohibits "sodomy" and prescribes the penalty of imprisonment of up to 3 years. Additionally, under Article 226, anyone found guilty of deliberately and publicly promoting indecency is liable to six months' imprisonment and a fine'.⁸

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia.⁹ In the report, which was published in 2022, it was noted that:

Though much of the Tunisian Penal Code has been extensively amended, Article 230 has remained untouched since its adoption in 1913 under French colonial rule. Importantly, Article 230 has two versions, in both French and Arabic. The French version of the law does not reference gender. It states that, "sodomy, if it does not fall into any of the cases specified in the previous articles, is punishable by three years in prison." The authoritative Arabic version explicitly calls out sex between women and sex between men. It replaces "sodomy" with Liwat (masculine homosexuality) and El Mousahaka (female homosexuality)." Both Liwat and El Mousahaka constitute criminal offenses punishable by up to three years in prison. The result of this change is particularly significant because the Arabic version is used as the authoritative text, and that the offending perceived criminal act is homosexuality rather than penetration.¹⁰

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that:

The process of revising the Tunisian penal code, although discussed in several meetings with government officials, seems to be at an unknown stage of its progress and does not seem to be done by including justice actors as well as civil society. This is even more serious when we see the lack of understanding of the different realities of LGBT people in Tunisia.¹¹

In December 2021, the International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA) published a report on laws criminalising same-sex sexual relationships and wrote about criminalising provisions in Tunisia:

⁸ International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA), [State-Sponsored Homophobia - Global Legislation Overview Update 2020](#), December 2020, p. 124

⁹ See Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022

¹⁰ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 31

¹¹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021

Article 230 of the Penal Code (2010) prohibits “sodomy” and prescribes the penalty of imprisonment of up to three years. Additionally, under Article 226, anyone found guilty of deliberately and publicly promoting indecency is liable to six months’ imprisonment and a fine. In practice, trans and gender-diverse people have been indirectly criminalised (de facto criminalisation) under provisions regarding consensual same-sex sexual acts and public indecency provisions.¹²

Freedom House wrote in its 2023 Freedom in the World report that in Tunisia, “LGBT+ people continue to face legal discrimination. Same-sex sexual activity remains illegal, with the penal code calling for prison sentences of up to three years for ‘sodomy’. This law has been enforced in practice in recent years”.¹³

iii. Other relevant legislation affecting LGBTQI+ persons

In December 2020, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) published its annual report on the rights of homosexuals and the criminalisation of homosexual acts across the globe, which listed, among others, “non-explicit legal barriers” to freedom of expression for LGBT Tunisians:

Amended in 2004, Article 226 bis of the Penal Code (1913) criminalises any act that publicly draws attention to the opportunity to “commit debauchery” through any form of writing, audio, or visual recording. This provision is in the same section entitled “attacks on morals,” where the provisions criminalising consensual same-sex sexual acts are located. Article 226, which punishes “indecent behaviour in public” by imprisonment up to six months, has been used against trans and gender diverse people.¹⁴

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia, in which she highlighted:

Terms like “morality,” “indecency,” and “debauchery” provide power to prosecutors to criminalise queerness and gender nonconformity within institutional and legal settings. There are laws with vague connections to sexual behaviors—such as the prohibition of “sodomy” (Tunisia) or “sexual acts against nature” (Lebanon)—that have been predominately applied to queer communities, as well as sex workers of all sexualities and gender identities. In all three countries, these laws are routinely justified with the observation that they can be used against heterosexual people and sexual acts, but in practice this is rarely if ever observed, except in application to sex workers. Though sex work was not the focus of this research, among the cases reviewed, queer and trans sex workers received the brunt of the charges and penalties. To counter the exploitation of vagueness for the purpose of persecution, it is important to verify and analyze the exact laws used. Prior work has shown that the framework of laws used to prosecute queerness goes beyond the few familiar, prominently discussed laws used to prosecute the

¹² International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA), [Our Identities under Arrest, December 2021](#), p. 108

¹³ Freedom House, [Freedom in the World 2023 – Tunisia](#), 13 April 2023, Section F. Rule of Law

¹⁴ International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA), [State-Sponsored Homophobia - Global Legislation Overview Update 2020](#), December 2020, p. 149

queer community 95 (e.g.: Article 230 in Tunisia). In practice, a complex interplay of laws is applied, and these vary depending on who is targeted, as well as the mechanisms used (e.g. based on physical on-street surveillance or through digital evidence).¹⁵

The same source reported:

In Tunisia, the principle laws used against LGBTQ people are drawn from the Penal Code (1913). The most prominent of these is Article 230, which criminalizes sodomy and homosexuality. Other key criminal provisions include those related to sex work and public indecency. Charges are deployed strategically during the process of prosecution, often with lesser and more vague laws used for an initial arrest. The use of lesser laws for the initial arrest may later be used to provide pretext for in-depth investigation which may result in the imposition of lengthier sentences. When they can't use 230, they use [another law] ... The goal for them is the punishment, you know. There is no not guilty. There is always, 'You are guilty. We must find the article.'"¹⁶

Further, the same source noted:

Two common charges for the initial arrest are public indecency (Article 226), and violation of public morality (Article 226 bis). These laws are vague as their terms have been left undefined by legislators. It is believed that the lack of clarification is intentional, as police and prosecutors can bend these laws according to circumstances. Local authorities frequently strengthen these initial charges by adding criminal offenses directly related to sex work. While the highest penalties are imposed on LGBTQ sex workers, laws criminalizing sex work are frequently employed against LGBTQ people, even where no money is changing hands. As one source noted, "Article 231 is used mostly for women and it's about sex work... [and in] addition to that there is Article 232 which is basically about the intermediary in sex work [and] Article 234, which is basically for public decency and the morals." In some instances, a single charge may be used as pretext for arrest, but as previously noted, trans women tend to receive harsher treatment. "For example, when you find a trans [person] in the public area with their clothes... they consider that as offending morals and [an example of] public indecency. And if that person had a sexual relationship with another person, the Article 230 [charge] is also applicable."¹⁷

The same source further reported on the deployment of cyber laws in Tunisia:

In Tunisia, the interviewees report multiple similarities to events described in Egypt. Of especial (sic) note is the use of the Telecommunications Code against LGBTQ people, as Article 86 of the Telecommunications Code stipulates that: "Anyone who intends to offend or disturb others using telecommunications networks shall be sentenced to imprisonment for a period between one year and two years, and a fine from one hundred and up to one thousand dinars." Interviewees point out that the law may be applied at a larger scope, as the Telecommunications Code can be used to grant increased

¹⁵ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 30

¹⁶ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 31

¹⁷ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 33

legal authority in searches of digital devices. Here, Article 230 of the Penal Code is of greatest significance, as it has already been used in the other Penal Codes used against the LGBTQ community along with Articles 226 and 226b. One interviewee noted, “in practice and according to the code of digital laws ... [law enforcement and prosecutors] go through the private life, digital accounts of people and [...] use that as evidence to basically criminalize them. [Then] according to public decency and good manners [laws] ... you can actually prosecute someone for public decency or good manners. So, it is mostly what it’s used for and also as well it could be used eventually for Article 230 as well.”

While gathering data for this report, no documentation of the direct use of Tunisia’s Communications Law used in conjunction with Article 230 was identified, but its use to supplement adjacent laws was observed: public indecency (Article 226), and violation of public morality (Article 226 bis). One of the interviewees pointed out how Telecommunications Code laws are currently reserved for surveilling journalists and other such cases that hold more political sensitivity, while the LGBTQ cases are mainly confined to penal laws and procedures. As has already occurred in Egypt, extending the applications of Articles 230 of the Penal Code and 86 of the Telecommunications Code would likely result in corresponding increases on the reliance of digital evidence in prosecutions, as well as increasing resources allocation to technological evidence. However, there have been instances in which extensions of the Communications Law have been applied to suppress the rights of LGBTQ persons. For example, one interviewee noted that, “One case of using [this] law: a person from an LGBTIQ+ organization went to report a police officer and instead got beaten up. He posted a video explaining what happened in social media which led the police officer mentioned in his video to accuse him of “attacking the police through an online post”¹⁸.

Minority Rights Group International (MRG) published a report on the impact of Covid-19 on the rights of minorities in Tunisia in 2021. Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

However, other laws are also used to criminalise members of the LGBTQI++ community, including article 226bis on offences against public decency, article 231 on sex work, article 125 on insulting a public official and article 226 on public indecency.¹⁹

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and later reported that:

Trans people are not allowed to change their name or gender markers on official documents and do not have access to health services that would allow them to make a gender transition. Tunisia's legislation on civil status is not in line with international developments towards the recognition of gender identity and makes this population invisible - especially in the figures. The non-conformity between the official identity

¹⁸ Article19/Afsaneh Rigot, [*Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia*](#), 7 March 2022, pp. 57-58

¹⁹ Minority Rights Group International (MRG), [*Impact of Covid-19 on rights of minorities : consultations with civil society*](#), 1 December 2021, p. 5 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

and the social identity of trans people keeps them in a situation of great vulnerability and social exclusion.²⁰

The US Department of State wrote about the unavailability of legal gender recognition in its 2022 Country Report on Tunisia:

Availability of Legal Gender Recognition: There is no legal option for individuals to change their gender markers on official documents or to express a nonbinary gender identity. Transsexual, transgender, and intersex individuals maintain the gender marker assigned at birth on their official documents, even after any transition or a medical intervention is undertaken. CSOs reported this made LGBTQI+ individuals vulnerable to violence, harassment, and discrimination from society and government actors.²¹

EuroMed Rights (EMHRN) reported in a 2023 report on the situation of women in Tunisia that “LBTQI+ women: Article 230 of the Penal Code is still in force and criminalises homosexuality. With the exception of a decision that recognised the right to change the identity of an intersex person, the justice system remains hostile to the recognition of the rights of sexual minorities”.²²

iv. Ratification of international legal instruments

In May 2020, Minority Rights Group International (MRG) published a report analysing data collected by Tunisian NGOs in several local “anti-discrimination points”. Using an online translation tool, [deepl.com](https://www.deepl.com/), the following information was translated from French into English:

Tunisia has ratified almost all the international human rights instruments. These include the Charter of the United Nations (1945), the Universal Declaration of Human Rights (UDHR) (1948), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966).

Then there are instruments with a specific scope, such as : The International Convention on the Elimination of All Forms of Racial Discrimination (1965), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), and the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Declaration on Race and Racial Prejudice (1978), the Convention against Discrimination in Education (1960), and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981).

After 14 January 2011, and with a view to strengthening the protection of human rights, Tunisia ratified other international human rights instruments. It acceded to the Rome Statute of the International Criminal Court (1998) by Decree-Law No. 2011-4 of 19 February 2011.

²⁰ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021

²¹ U.S. Department of State, [*Tunisia 2022 Human Rights Report*](#), 23 February 2023, pp. 31-32, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

²² EuroMed Rights (EMHRN), [*Report on the situation of women \(legislative framework; discrimination; vulnerable or marginalised populations; other topics\)*](#), March 2023

In 2018, Tunisia acceded to the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, also known as the Lanzarote Convention (2007).

In 2018, Tunisia also acceded to the Maputo Protocol (of 11 July 2003) on the Rights of Women in Africa or Protocol to the African Charter on Human and Peoples' Rights.

Tunisia has also ratified the Optional Protocol to the Convention against Torture (2002) by virtue of Decree-Law No. 2011-5 of 1913 February 2011. Tunisia has also ratified the first Optional Protocol to the International Covenant on Civil and Political Rights (1966) (Protocol). Tunisia acceded to this Protocol in 2011, in order to recognise that the Human Rights Committee (H.R.C.) is competent to receive and consider complaints from individuals, subject to its jurisdiction, who claim to be victims of a violation, by a State party, of any of the rights set out in the ICCPR. When ratifying the Copenhagen Convention of 18 December 1979 on the Elimination of All Forms of Discrimination against Women in 1985, Tunisia entered reservations and made a declaration. The reservations were withdrawn by the decree-law of 24 October 2011. However, Tunisia has not ratified the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.²³

b. Implementation

i. Arrests

1. Entrapment

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and stated that “The complexity and progression in the monitoring and entrapment that has been observed in Tunisia is concerning”.²⁴

The same report provided information on the length of time spent by police officers gathering evidence:

The duration over which digital evidence is gathered in the course of prosecution is another important element of its collection. Tunisia and Egypt demonstrated similar patterns of evidence gathering prior to arrest, connected to the police’s use of monitoring and entrapment [...]

In Tunisia, there was no evidence of a systematic surveillance operation. Once the police “hear about a person, or they see a person ... it’s kind of vindictive, they follow this person, and they start gathering data on this person basically.” 297 If the first contact is the result of social engineering or the use of a fake profile, then during the data-gathering stage the police will also tailor the digital evidence to their needs. One interviewee found that if “they are using Grindr or something like that, they are already actually setting up this person. Like before even anything happens, they are doing this so obviously they are gathering proof before; like they are creating basically that “proof.” Data collected through catfishing or ad hoc monitoring can later be put into play, where: “[Police] just wait for the person to do just one mistake, that would allow them to actually make the step and arrest them; whether it’s a fight, whether

²³ Minority Rights Group International (MRG), [Report analysing data on cases of discrimination collected by the Anti-Discrimination Points](#), May 2021, pp. 8-9-10 [Rapport d'analyse des données sur les cas de discrimination récoltés par les points Anti-Discrimination]

²⁴ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 96

they are like out [...] they will find a way to turn it from what they arrested them for into arresting them for homosexuality.”

Neither the interviews nor the case files provided precise information on the duration over which this strategy typically plays out. However, the investigation will be shorter where the police are confident that they have what they need to ensure conviction. Then, “police sometimes intervene at the same time. In other cases, when the police think that they will not find anything, they try to intercept those persons and they take more time, of course.”²⁵

The same source also indicated that:

In each country [Lebanon, Egypt, Tunisia], interviewees suggested that other individuals who communicated with someone investigated for their LGBTQ identity would also be at risk of arrest, indicating that an arrest of one person in the LGBTQ community might have substantial ripple effects throughout the community as a whole. “What you need to know is that once they get a hold of one person’s phone, they start going into other people. because they see conversations with other people, so they start requesting the presence of other people too. [...] this is why when we talk about “smart” phones, we always say these devices are used as intelligence for the police forces more than anything else.”²⁶

The same source wrote further about techniques of physical surveillance conducted by the police in Tunisia:

One of the Tunisian lawyers [interviewed for the study] noted that “they spy... they are in the bars or in places where they know that there are people who go there in order to go on a date or something like that.” The interviewee noted that other commonly surveilled place include those known for “cruising” or touristic areas where queer people from more rural areas or queer tourists may congregate. Importantly, this is done often by plainclothed officers: “You can’t tell sometimes that they are police, you think they are citizens. So they kind of spy and then whenever you are about to do something; that’s when they come and get you.[..]

In Tunisia, street-level surveillance most severely impacts the most vulnerable sections of the queer community, specifically trans people, refugees, and sex workers: “So basically the police know approximately in which areas these sex workers work and even patrol [there]” Once an individual is identified “they use their telephones to go through their messages because most of the time sex workers would actually meet clients through messages or apps. They just go through that to confirm whatever they are trying to arrest them for.”²⁷

The same source wrote about entrapment techniques used by the police:

²⁵ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 72-73

²⁶ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 75

²⁷ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 76-77,79

In Tunisia, there is now an observable shift towards using digital devices and apps to target individuals and it was mentioned in all but one of the interviews. The main method observed was surveillance and monitoring of Facebook activity. However, in a pattern similar to that in Egypt, the Tunisian authorities are now beginning to use fake profiles on both Facebook and dating apps. “Most of the time they use Facebook and Messenger. They create a fake profile on Facebook... they add the person online; they start a conversation with them to be able to actually have proof.” As of yet, the interviews and cases documented only a sporadic or arbitrary application of these methods by certain officers and precincts. Interviewees noted that when fake accounts are employed, police use an unusual level of detail: “they create full profiles. Most of the time, they use fake photos, they create a fake story, to be able to collect as much information as possible from people.” In some cases this may be attributable to the size and closeness of the communities in

“smaller regions... [where] there is more proximity between the prosecutors and the people... [T]hey usually know these people so what they do is that they actually create themselves fake profiles to build something on these people so then when they have enough to actually prosecute this person... like a money dispute or something like this, and they would already have a file that is ready and full of proof.”[...]

While the research interviews were being conducted, reports came in from interviewees and local experts about Tunisian police in Sousse making numerous accounts on Grindr in order to identify and entrap people. One interviewee said that, “[Sousse is] known as a touristic place. And there was information that police are systematically using chat [and dating] applications and websites and especially Grindr to kind of identify

homosexuals, etc.” Organisations such as Damj immediately created campaigns to warn the community. When the fake accounts began to initiate contact,

“they actually made meeting points with them, like they wanted to meet them. But luckily the...queer people [found out] that the police [had] noticed the [Grindr app], and understood that this was police and very quickly they started sharing on LGBTQ Facebook groups ‘to pay attention that there are police using the app, and just to be certain that you are safe.’”

As a consequence of the effective community response, no arrests were documented.²⁸

Human Rights Watch (HRW) published early 2023 the results of a study on anti-LGBT digital violence in Egypt, Jordan, Iraq, Lebanon and Tunisia and found that:

Authorities in Egypt, Iraq, Jordan, Lebanon, and Tunisia have integrated technology into their policing of LGBT people. Security forces across these countries have combined traditional methods of targeting of LGBT people—such as street-level harassment, arrests, and crackdowns—with digital targeting—such as entrapment on social media and dating applications, online extortion, online harassment and outing, and reliance on private digital information in prosecutions—as tactics to target and prosecute LGBT people.

The public nature of digital platforms has granted authorities across the region increased access to LGBT people’s private lives. Dating applications and social media have become sites of potential violence and enabled government infiltration of private spheres where LGBT people congregate and organize.

The authorities across the five countries monitor social media and search LGBT people’s personal devices to collect images, text messages and chats, and other information that is subsequently used to persecute them. Any suspicion of homosexuality or gender variance may prompt security forces to search devices. Of the cases documented in this report that involve interactions between LGBT people and security

²⁸ Article19/Afsaneh Rigot, [*Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia*](#), 7 March 2022, pp. 93-94, *App And Social Media Monitoring And Entrapment*

forces, the security officers searched LGBT people's phones, at times by force, in every instance. In most cases, selfies, other photos, chats, and the mere presence of same-sex dating applications, such as Grindr, were used by security forces and prosecutors to justify prosecution and abuses against LGBT people, based on their presumed or actual sexual orientation or gender identity.²⁹

2. Arbitrary arrests

2020

No relevant information could be found amongst the sources consulted within the time frame for this report.

2021

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and noted:

The multiply marginalized are more at risk. Although all queer persons in these countries [Egypt, Lebanon, Tunisia] face risks, those who are multiply marginalized often experience the most violence from police and the criminal justice systems. Queer persons who were viewed as “feminine,” both among trans women and gay men, were more likely to be prosecuted than those who presented as more “masculine.” Queer cis women, non-binary people, and trans men face varying and specific challenges societally and legally, resulting in charges being brought against them differently under the three countries' legal systems. However, they represent a lower number of cases in courts as seen in this report. This does not suggest a lack of targeting by law enforcement, but rather the research of this report showed less evidence of these cases. More research would need to be done on the impacts faced by queer cis women and non-binary people in courts.³⁰

The same source reported about the lack of official statistics on prosecutions, trials and arrests:

Increasing the visibility of LGBTQ people in Tunisia has resulted in increased public backlash against the community. Criminalisation of LGBTQ persons continues, including reports of torture of LGBTQ people in custody. The provisions of the Penal Code still allow for targeting of persons on the basis of their gender expression, regardless of the presence of evidence of a prohibited act. Prosecutions and arrests based on gender and sexual identity are common, but official statistics on prosecutions, trials, and arrests are scarce.³¹

The same source further reported that:

²⁹ Human Rights Watch (HRW), [*“All This Terror Because of a Photo” Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*](#), 21 February 2023

³⁰ Article19/Afsaneh Rigot, [*Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia*](#), 7 March 2022, p. 2

³¹ Article19/Afsaneh Rigot, [*Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia*](#), 7 March 2022, p. 26

Findings from the interviews [with 6 Tunisian lawyers and one case worker] can be used to show that Article 230 is heavily used against those who the authorities deem to have engaged in “Liwat,” or simply assumed to be queer and therefore to have engaged in anal sex. “Its application has been [...], especially after 2011 [Tunisian Revolution] has been only applied to men, not to [cis] women.” Here, it should be noted that the authorities, including judges, prosecutors, and police, rarely if ever categorized trans women as women. In addition to being denied human rights and civil liberties, trans women are some of the most targeted persons under Article 230.

In targeting queer men and trans people, authorities have also relied upon slippage from the act of sodomy to the state of being that is Liwat. By doing so, proof of a physical act is not required for conviction, but rather a conviction can be achieved via forced confessions or digital evidence (what is deemed digital evidence of a crime of queerness in these contexts is expanded on further in the report). As one interviewee put it, “[the] expression “sodomy” is very vague; [...] either [the authorities] say that there is an intent to do those acts and to promote these acts in the area where they are or they just mention that apparently they are [gay].” Another specified that Article 230, “has been applied whenever police suspect that you are homosexual based on your outfit, based on your maybe how you talk, how you are behaving.”

The interviews [with 6 Tunisian lawyers and one case worker] can be used to show that in practice, all applications of Article 230 are understood to require a physical act, but this act is not necessarily penetration: “they need to be caught in action for them to be directly arrested.” For this reason, LGBTQ people are not arrested under Article 230 but rather may be charged with it later, after evidence can be gathered. Initial arrests are made based on justification provided by other laws, and charges strengthened by application of Article 230 (more on this below).³²

Human Rights Watch (HRW) reported in its World Report 2022 about events which took place in 2021 in Tunisia:

Tunisian police officers repeatedly targeted lesbian, gay, bisexual, transgender, and intersex (LGBTI) activists at general protests that took place in January in Tunis against deteriorating economic conditions and the government’s handling of the pandemic and singled them out for mistreatment. Officers arbitrarily arrested LGBTI activists, assaulted them, and threatened several of them with violence including rape and murder. Some used social media to harass and “out” the identity of the activists by revealing private information such as their home addresses and phone numbers, and incited individuals to ridicule and harass them.³³

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that:

LGBT sex workers face multiple and aggravated forms of discrimination and, if they are homosexual or trans, double criminalization for homosexuality, morality or indecent assault. This criminalization, combined with a strong stigma attached to this activity, renders sex workers extremely vulnerable to

³² Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 31-32

³³ Human Rights Watch (HRW), [World Report 2022 – Tunisia](#), 13 January 2022

violence, police abuse and blackmail. I have received several testimonies from gay and trans sex workers who were victims of police harassment, extortion, and violence by law enforcement officers. In some cases, the police even appear to interrogate and arrest women suspected of sex work simply on the basis of their appearance or background rather than observed illegal activity.

[...] The testimonies gathered during the visit describe both legal and police harassment aimed at muzzling and punishing any attempt to free sexual and gender identities that do not correspond to the dominant social norm.³⁴

2022

In July 2022, the News Agency Al Jazeera reported that in Tunis, “Police have arrested a leading gay rights campaigner in a violent pushback against young people during a rally against the upcoming referendum on the Tunisian president’s newly proposed constitution.”³⁵

The US Department of State wrote in its 2022 Country Report on Tunisia that:

The law criminalizes consensual same-sex sexual conduct between adults; however, police enforced the law as if it also criminalized LGBTQI+ identity absent sexual activity. Convictions for same-sex sexual conduct between adults carry up to a three-year prison sentence. According to NGOs, authorities occasionally used the law to detain and question persons concerning their sexual activities and sexual orientation, reportedly at times based on appearance alone. NGOs reported in some instances, LGBTQI+ individuals were targeted under the penal code article criminalizing “infringement of morality or public morals”; conviction carries a penalty of six months in prison and a fine. The vague language of the penal code, as well as the lack of a legal definition of public morality, allows police wide discretion on what constitutes a morality or public morals crimes.³⁶

The same source echoed a report by the NGO Democracy for the Arab World Now, stating that:

In a June report from NGO Democracy for the Arab World Now, Mounir Baatour, a lawyer and activist who cofounded and is the president of Shams, an NGO advocating for LGBTQI+ rights, stated laws criminalizing public exposure and indecent assault represented “a threat to the LGBTQI+ community.” He stated there were approximately 120 cases against LGBTQI+ persons each year based on the criminal code.³⁷

January – May 2023

³⁴ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity – Institutional violence](#), 18 June 2021

³⁵ Aljazeera/Elizia Volkmann, [Police arrest leading gay activist in crackdown on Tunisia rally](#), 23 July 2022

³⁶ U.S. Department of State, [Tunisia 2022 Human Rights Report](#) –, 23 February 2023, p. 30, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

³⁷ U.S. Department of State, [Tunisia 2022 Human Rights Report](#) –, 23 February 2023, p. 30, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

No relevant information could be found amongst the sources consulted within the time frame for this report.

3. Arbitrary arrests of LGBT asylum seekers and refugees

2021

In October 2021 Human Rights Watch (HRW) published an article on its website about the attack on the director of a Tunis-based LGBT rights group:

Two police officers apparently brutally attacked the director of a Tunis-based LGBT rights group on October 21, 2021, Human Rights Watch said today. The attack on Badr Baabou took place against a backdrop of mounting abuses targeting LGBT activists by Tunisian security forces.

Baabou, the director of Damj Association for Justice and Equality, told Human Rights Watch that two men ambushed him in downtown Tunis on October 21 at 9 p.m., as he was on his way home. One was wearing an Internal Security Forces vest and the other was wearing police boots.[...]

The attackers took Baabou's wallet, identification documents, mobile phone, and his work laptop, which contains confidential information about the organization's beneficiaries. Damj and Baabou have filed scores of complaints against the police on behalf of LGBT people who had been assaulted by security forces since the organization was founded in 2005.[...]

The assailants called Baabou by his full name, cursed him and his work on defending LGBT rights, and threatened him with death, he said. On October 25, Baabou registered a complaint at the public prosecutor's office in Tunis First Instance Court, against the director general of national security, director of the Tunis Region, and the two alleged officers.

Baabou's medical report, which Human Rights Watch reviewed, states that he had a concussion and injuries to his neck, rib cage, eye, and face from repeated punches and kicks. Baabou's doctor said that he needed monitoring for 15 days due to the severity of his injuries. The report says that he suffered multiple hematomas, a 2–4-centimeter blunt force trauma to the head and forehead near his eye, as well as a trauma to the rib cage.

Human Rights Watch has documented assaults, arrests, and home and office raids by security forces against Tunisian LGBT activists every year since 2018, including raids on Baabou's house and Damj's office.³⁸

Numerous media, such as Edge Media Network, also published an article on its website narrating the assault on Badr Baabou.³⁹

2022

The US Department of State wrote in its 2022 Country Report on Tunisia about the criminalisation of homosexuality:

³⁸ Human Rights Watch, [Tunisia : Attack on Director of LGBT Group](#), 28 October 2021

³⁹ Edge Media Network, [Tunisia : LGBTQ Activist's Assault by Police Seen as a Pattern](#), 10 December 2021

In May and June, police arrested 14 individuals on sodomy charges and 45 nonbinary individuals on charges related to “public morality,” according to the Damj Association, an LGBTQI+ rights NGO. In these cases, individuals reported being arrested based on perceptions concerning their appearance, innocent displays of affections such as holding hands, and after self-identifying as LGBTQI+ to police. The Damj Association reported some individuals were prosecuted and on conviction sentenced to between two months and one year in prison while other cases continued at the end of the year.⁴⁰

2023

In March 2023, the news agency France 24 published an article reporting about the arrest of LGBT sub-Saharan African refugees by Tunisian police forces in Tunis following the attack of their shelter by Tunisian anti-gay vigilantes.⁴¹ Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

On the night of Thursday 23 February, a mob of men attacked the occupants of a home for refugees from the sub-Saharan LGBTQ community, in a district in the north of Tunis. Beatings, insults and stab wounds: the residents of the hostel say they experienced a night of terror. Around thirty people, including at least 6 with United Nations refugee cards, were arrested that evening. A few days earlier, on Monday 20 February, another home for LGBT refugees was similarly attacked in a district of Tunis city centre.[...] The [France 24] Observateurs editorial team contacted several organisations fighting for LGBT rights in Tunisia, but none of them had any information about the fate of the undocumented LGBT people arrested on 23 February. Many migrants have no access to information about their rights. Not to mention the climate in the LGBT and sub-Saharan community.⁴²

4. Mistreatment in Investigations

2020

In August 2020, Human Rights Watch (HRW) published an article on its website about the decision of the Tunisian Appeals Court to uphold the conviction of two men accused of sodomy:

In June [2020], police arrested the men, both 26, on suspicion of same-sex conduct in Le Kef, a city 175 kilometers southwest of Tunis, after one of them filed a complaint against the other regarding an outstanding loan. The first instance court in Le Kef sentenced both men on June 6 to two years in prison for sodomy under article 230 of the penal code, which punishes consensual same-sex conduct with up to three years in prison. The lower court’s decision, which Human Rights Watch reviewed, was based on the

⁴⁰ U.S. Department of State, [Tunisia 2022 Human Rights Report](#) –, 23 February 2023, pp. 30-31, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

⁴¹ France 24, [In Tunis, two shelters for LGBT refugees from Subsaharan Africa attacked](#), 01 March 2023 [A Tunis, deux foyers de réfugiés LGBT subsahariens attaqués]

⁴² France 24, [In Tunis, two shelters for LGBT refugees from Subsaharan Africa attacked](#), 01 March 2023 [A Tunis, deux foyers de réfugiés LGBT subsahariens attaqués]

defendants' alleged "confessions" during the police investigation to engaging in same-sex relations, which both defendants repudiated before that court. [...]

Hassina Darraji, the lawyer who represented the men before the appeals court, said she brought to the court's attention the defendants' statements that the police bullied, insulted, and threatened them to get them to confess to being gay, and attempted to persuade them to undergo an anal exam, purportedly to test for sodomy, which they refused. At the trial, Darraji said, the defendants pleaded not guilty to all charges and refuted allegations related to their sexual orientation.⁴³

In December 2020, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), wrote in its annual report on the rights of homosexuals and the criminalisation of homosexual acts across the globe that in Tunisia, "convictions on the grounds of sodomy in Tunisia have reportedly been on the rise, with multiple cases in recent years of LGBT individuals being arrested, jailed, and made to undergo anal examinations to find 'proof' of same-sex sexual conduct".⁴⁴

Reporting on digital media and internet freedom in the period from June 2020 to May 2021, Freedom House wrote that in Tunisia "Digital evidence pulled from cell phones, laptops, or social media accounts has been used in many cases to suppress and condemn LGBT+ people under Article 230 of the penal code, which outlaws same-sex relations".⁴⁵

2021

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and found:

Police employ digital evidence to stack an Article 230 charge on top of one or more of these other charges. In many cases, as mentioned by all the interviewees [6 Tunisian lawyers and one case worker] in both Tunisia and Lebanon, the police don't build a case in advance, but rather do so during the proceedings against, or investigations of, an individual. Following arrest, they take the opportunity to conduct device searches and questioning related to an individual's gender identity or sexuality. If digital evidence or a confession can be obtained, an Article 230 count can be added to the case, which can then lead to simultaneous charges in court. One researcher described this process as "an element of trial and error, or mix and match, of seeing which article can create a sentence/lead to an arrest: it's about getting a verdict not about assessing the validity of a 'crime'" and that "When they can't use [Article] 230, they use [Article] 226. [...] The goal for them is the punishment, you know. There is no not-guilty. There is always, 'You are guilty. We must [just] find the article.'"[TL5]108 This practice of cherry-picking different articles with the end goal of a guilty verdict at trial is a process which appears to guide police decision-making from the moment they target a LGBTQ person for arrest. Alternatively, some members of Tunisian law enforcement have applied a technique where, in advance of an arrest, "they actually build something so then when [queer people] are arrested for something else they have proof" for an Article 230 charge.

⁴³ Human Rights Watch (HRW), [Tunisia: Homosexuality Convictions Upheld](#), 5 August 2020

⁴⁴ International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), [State-Sponsored Homophobia - Global Legislation Overview Update 2020](#), December 2020, p. 124

⁴⁵ Freedom House, [Freedom on the Net 2021 - Tunisia](#), 21 September 2021

Police build their advance cases by monitoring queer people on apps and tools, slowly compiling a file of the needed digital evidence.⁴⁶

The same source reported:

In Lebanon and Tunisia, the patterns of extraction are not just about evidence for court, but can be used as leverage to gain a confession: “on the phone they look at WhatsApp conversations, that look at Grindr. They look at all messaging apps. They look at photos. They look at the sexting specific...” and when they get it “They either unofficially confront them with the evidence to extract a confession as I said, or they actually mentioned [it] in the police report.

The same source further reported:

Lebanon and Tunisia have both officially banned the use of this practice; however, as confirmed in this report and more broadly, the threat of anal exams continues to be used against individuals. In Lebanon and Tunisia, all interviewees [6 Tunisian lawyers and one case worker] point out that even with the accused certified right to refuse anal exams, this refusal is used in court as a form of additional evidence, as it is framed as an admission of engaging in anal sex. In Tunisia, regardless of the legal wins on this issues, one interview who was interviewed in October of 2020 mention that “the last [known] anal test that has been used in one of the cases was May 9 of (2020).” The Lebanese interviews suggest that there are indications to suggest the practice is still being conducted illegally.

A last important note regarding both anal tests and other types of non-digital evidence is how these are now linked to digital evidence, either to create causality or as part of coercion tactics, or even to move proceedings forward. An interviewee from Tunisia noted that, “if they find for example videos, photos, etc. they will use those to push for an anal testing. If the anal testing is positive then obviously that doesn’t go in their favor; if they refuse to do the anal testing then they would rule that because they refused it’s probably true then this is it.[...]”

In interrogations where the interrogators are looking to gather a confession by any means, it is no surprise that digital evidence can and has played an important role in helping coerce confessions. The existence of digital evidence can be used to convince individuals that they are already convicted or play on their fears of being outed by the police to their families. To gather confessions, Tunisia lawyers in particular have reported blackmail and threats of outings as well as the use or threat of physical violence. Interviewees in Tunisia note that, “they harass them and they beat them even sometimes. Luckily the people he has worked with, they wouldn’t confess but in general like it’s through violence and harassment that they actually get the confessions. [...]”⁴⁷

The same source also noted:

When such intimidation [when the police pressures arrested individuals into revealing their phone’s password] is successful, the resulting search can be framed as consensual. “A lot of people [agree to the search] because they are afraid or under pressure, even being tortured” and thus give consent. This is

⁴⁶ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 33

⁴⁷ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 131-132

subsequently hard to challenge in court because the “answer would simply be ‘but you gave the passcode so you agreed’.” In the instances when someone refuses to cooperate, police can sometimes use work-arounds. For example, if a person does not provide their password, on some phones the “phone can be opened with his facial recognition. They just point it at his face, or try to use his finger to open it and so on.” Other coercive tactics may have more commonly included physical violence, but in Tunisia interviews confirmed that with recent changes to legal rights of detainees, certain methods of torture have been curtailed. “Now with 2016 law, it’s the law number 5 of 2016, they cannot violate the person. They cannot hit him. But... before the [involvement] of the lawyer... they confiscate the phone.... You cannot reject it. And in that time, they enter by force into the phone ...[...]

After gaining access through coercion or other methods, investigators are free to take their time to make a case. Interviewees from Tunisia found that this gives police and prosecutors a tactical advantage, as “They go through ... phones, through the conversations, through their profiles, and check all the conversations, all the content, video and photos and use these as proof,” and “They actually start building a case on that. [This] sometimes gets them incriminated because sometimes they can find an irrefutable proof and there’s nothing that can be done at this point.” For this, officers and prosecutors need to identify the information relevant to building a successful case. A phone of any individual can have hundreds of chats, numerous apps, thousands of photos: “if they are sure that this person is homosexual and they don’t find any proof or any applications, special [queer] applications, they try to search in every social platform, you know to find and extract some proof.” They focus in on certain applications: Facebook, WhatsApp, queer dating apps and the phone’s own photo galleries and text message archives. “They [search for] sexting in specific.” Web browsing and search history may also be checked, with an emphasis on finding pornography.[...]

While police and prosecutors will ultimately need to verify the validity of the evidence to the court, one lawyer explained a common way around this: “They show the digital evidence for example photos, and they make the apprehended [person] sign and approve of them.” 280 This provides an impression of validity to the search process.[...]

Similarly in Tunisia, accused persons have de jure rights. “And you know that those things are protected by the personal data laws. And it’s illegal to search phones so...the person who is arrested has the right to remain silent and has a right to not give his phone in order to be searched.” In reality, however, “They take the phone by force. Especially in Tunisia... we are Facebook people... They force them to open their Facebook and they look at it and see all the conversations and all your private life, [as if] it’s their life.”. Such misconduct by public officials is especially common in LGBTQ cases. 8 out of the 9 Tunisian cases reviewed had illegal searches, through which evidence was added to the files. It should be noted, however, that officers often gain permission to engage in searches and acquire evidence after the legal window for warranted searches has closed.⁴⁸

Regarding “police stations and opportunistic prosecutions”, the same report stated:

A very common path to prosecute for LGBTQ individuals in Lebanon and Tunisia leads through unrelated contact with the authorities, such as reporting a crime or being involved in another case under investigation. When investigators, prosecutors or police get access to the individual’s device and the digital evidence on it, they’re able to start creating a case based on the individual’s sexual or gender identity.

⁴⁸ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 67-68-69-70-72

The danger of police stations and that abuses that occur therein are an overarching theme in every interview conducted in Tunisia and Lebanon. Interviewees emphasized that this is one of the main ways individuals are at risk of prosecution based on their gender identity. A Tunisian lawyer said, “Once you are there you can’t quit, you are condemned even before you go to the court. It’s as if [the police station] was the court.” Data from the case files supports such statements. Surprisingly, given the extensive and seemingly arbitrary nature of arrests and prosecutions in Egypt, the research efforts did not find much evidence of the use of this method in that country.

Through interrogations and device searches at police stations and precincts, queer people who interacted with the arrested or questioned individual may be identified. An interviewee indicated that “[there are] people who were caught and then spoke about other people so the [others] got arrested or [the police found] texts were from them where they were identified, so they went ahead and arrested these people”.⁴⁹

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that the testimonies gathered during his visit “paint a consistent and disturbing picture”:

Sanctioning real or presumed gender identities and non-normative sexual orientations (based on gender expression, mannerism, etc.)

Violation of privacy: searches and confiscations of computers, mobile phones to look for “evidence” of homosexuality or other offences related to morality or modesty; seizure of condoms and lubricant as “proof” of the same offences.

Verbal and physical abuse by law enforcement officials against arrested LGBT people.

Tests ordered by the judiciary to prove homosexuality.[...]

The information available to [him] also indicates an almost systematic use of the practice of anal testing to prove homosexual relations, in violation of international texts relating to the prevention of torture and in complete inadequacy with the scientific data on the probative value of this test and the negative impact on the persons subjected to it. [He] note[s] with astonishment the confusion between the tests carried out to prove sexual assault and those carried out in order to prove supposed homosexuality.[...] ⁵⁰

In particular, anal tests are an abhorrent practice, internationally recognized as torture. I am not in a position to accept that the current practice of requiring the consent of the victim validates this heinous act, for many reasons. One of them is the fact that, in practice, the refusal to accept this test is considered a presumption of guilt – which in itself creates coercion. But, more importantly, we must accept the logic that the test has no probative value: there is a scientific consensus that it is unable to provide valid evidence. In practice, its use is seen as a threat to obtain confessions, blackmail and suffering. Like any other form of torture, the continuity of testing in cases of suspected homosexuality is the responsibility of

⁴⁹ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 82, 85-86

⁵⁰ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, *Institutional violence*

the State and should be the subject of criminal proceedings against the perpetrator of the torture and the requesting authority.⁵¹

The Bertelsmann Stiftung wrote in its 2022 country report about Tunisia that:

According to human rights organizations, dozens of detainees have reported torture and other ill-treatment by law enforcement. Often, the authorities have also denied detainees their right to call a lawyer or relative. Using Article 230 of the penal code, authorities prosecuted and imprisoned presumed-gay men for “sodomy.” In this context, the discredited procedure of anal testing to “prove” homosexual conduct has continued, even though the government accepted a U.N. Human Rights Council recommendation in May 2017 to end the practice.⁵²

The US Department of State wrote in its 2022 Country Report on Tunisia about state violence against LGBTQI+ Persons:

Authorities and medical officials continued the practice of forced anal examinations, particularly for gay men, in purported attempts to gather evidence of same-sex sexual activity. Human rights organizations widely criticized the procedures as invasive, humiliating, and with no scientific value, but there is no prohibition against them under the law. According to NGO Lawyers without Borders, an individual was forced to undergo an anal examination after an accusation of homosexuality.⁵³

The same source indicated on the subject of restrictions of freedom of expression, association, or peaceful assembly that “Activists and media reported police harassed, arbitrarily detained, assaulted, and threatened LGBTQI+ protesters during the year. Some of those subjected were also prevented access to legal counsel”.⁵⁴

In August 2022, the UN Human Rights Council (HRC) published information on Tunisia compiled for the Working Group on the Universal Periodic Review and summarised:

5. Lesbian, gay, bisexual, transgender and intersex persons

46. The Independent Expert on sexual orientation and gender identity recommended that Tunisia legally recognize the gender identity of trans persons; ensure the successful execution of the specific actions identified by the National Authority for the Prevention of Torture to strengthen the capacity of staff in detention centres and shelters, in order to prevent torture and ill-treatment; promote, in addition to their political recognition, the recognition of lesbian, gay, bisexual, and transgender persons through the

⁵¹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Recommendations*

⁵² Bertelsmann Stiftung, [*BTI 2022 Country Report - Tunisia*](#), 24 January 2022, p. 13

⁵³ U.S. Department of State, [*Tunisia 2022 Human Rights Report*](#) –, 23 February 2023, p. 31, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

⁵⁴ U.S. Department of State, [*Tunisia 2022 Human Rights Report*](#) –, 23 February 2023, p. 32, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

adoption, in all government institutions, of initiatives aimed at documenting the issues faced by these persons; and systematically follow up on allegations of hate crimes against lesbian, gay, bisexual, and transgender persons and consider adopting differentiated approaches to ensure that such allegations were properly investigated.

47. The Independent Expert on sexual orientation and gender identity and the Human Rights Committee recommended that Tunisia repeal article 230 of the Criminal Code, provide law enforcement officials with training on respect for diverse sexual orientations and gender identities, recognize associations for the protection of the rights of lesbian, gay, bisexual, transgender, and intersex persons, and prohibit intrusive medical examinations that have no medical justification. The United Nations country team made similar recommendations.⁵⁵

A week later in August 2022, the Tunisian state responded to the Working Group on the Universal Periodic Review:

“E. Combating discrimination on the basis of sexual orientation (125.48)”:

172. The purpose of rectal examinations is not to find evidence of homosexuality or to determine an individual’s sexual orientation. The examination is conducted on all victims as being the only way to prove sexual assault through anal penetration.

173. Under article 230 of Criminal Code, such examinations are conducted only with the consent of the person concerned, and there is no presumption that the person has perpetrated an offence. The forensic doctor must respect the will of the individual in question or is liable to disciplinary or criminal proceedings under the Code of Medical Ethics.

174. Tunisia wishes to recall that it voted in favour of the 2019 Human Rights Council resolution on the renewal of the mandate of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity. The Independent Expert then visited Tunisia in June 2021, the first visit of its kind in the region.⁵⁶

76 crimes published an article in March 2023 relaying the Tunisian LGBT+ rights group Damj’s “Queer state of Emergency”:

Damj said its emergency hotlines “are being frighteningly showered with requests for urgent legal interventions day and night.”

The Tunisian LGBT+ rights group Damj has issued a “Queer State of Emergency” in response to a barrage of raids targeting LGBT+ people that was launched by Tunisia’s Ministry of the Interior.

The crackdown began with a raid on the homes of three trans women on Feb. 13, Damj said. It has continued with unconstitutional arrests and other human rights abuses, including torture, forced confessions and denial of detainees’ right to an attorney.⁵⁷

ii. Treatment in Detention Facilities

⁵⁵ UN Human Rights Council (HRC), [Tunisia – Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights](#), 22 August 2022, p. 8

⁵⁶ Tunisia, [State report to the Working Group on the Universal Periodic Review](#), 29 August 2022, p. 17

⁵⁷ 76crimes, [Anti-LGBT raids in Tunisia create ‘Queer state of Emergency’](#), 3 March 2023

In March 2021, Human Rights Watch (HRW) reported about the arrest of LGBTIQI activist Rania Amdouni the same month, preceded by months of harassment by police officers:

Hanchiri [Amdouni's lawyer] spoke to Amdouni, who told him that at the Manouba women's prison where she is detained, women prison guards have repeatedly entered her cell at night while she was sleeping, insulted her using derogatory language relating to her sexual orientation and gender expression, and threatened her for attempting to complain about the police, he said.⁵⁸

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that:

In practice, prison authorities and officers recognize that homosexual men are part of the prison population and also include trans women in that population. I was able to visit the largest prison in the country and observe the differentiated approach taken for homosexual men. As in any other state institution, the criminalization of homosexuality has a very concrete impact on the enjoyment of rights: for example, I have been informed that prison authorities do not distribute and allow the distribution of condoms in prison because this would be considered an act of promoting homosexuality – which is criminalized. This practice worries me greatly in view of the HIV prevalence rate of 9.1% in Tunisia among MSM and the reality of same-sex sex intercourse in detention, confirmed in a report by the United Nations Population Fund which revealed that 72.7% of trans people who said they had been in prison had had sexual intercourse during the period of incarceration.⁵⁹

76 crimes published an article in April 2023, based on information by the organisations All Out and Damj about the conditions in detention of a Tunisian trans-woman arrested in December 2022:

Maya, a Tunisian trans woman, has been released from prison after more than 32,000 people signed an online petition demanding her release.[...]

"In December 2022, Maya, a trans woman from Tunisia, was arrested with four other individuals. She was sentenced to six months of jail under article 230 of the Tunisian penal code, criminalizing same-sex relationships, and put in a detention center for men.[...]

She was harassed, intimidated and denied access to an attorney, and her hair was forcibly shaved off in prison, Damj said.⁶⁰

iii. Prosecutions and convictions under laws that are deployed against the LGBTIQI+ community

2020

⁵⁸ Human Rights Watch (HRW), [Tunisia : Harassment, Arbitrary Detention of LGBT Rights Activists](#), 9 March 2021

⁵⁹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, *Persons deprived of their liberty*

⁶⁰ 76crimes, [Tunisia frees trans woman serving a 6-month sentence for whom she loves](#), 27 April 2023

In a report published in December 2021, the International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA) reported on laws criminalising same-sex sexual relationships, and listed examples of the enforcement of such laws during the year 2020:

On 3 June 2020 police arrested two men in el-Kef when one laid an unrelated complaint against the other, and authorities looking into the case realised they were gay. The prosecutor of the Kef First Instance Tribunal charged the men with sodomy, and on 6 June they were sentenced to two years' imprisonment. On 28 July an appeals court upheld their conviction, but reduced the sentence to one year in prison.

In July 2020 a judge handed down a prison sentence to two men suspected of being gay for their refusal to

submit to an anal examination, ruling that their refusal constituted "sufficient evidence" that the "crime" of same-sex sexual activity had been committed.

On 5 August 2020 a trans man—the founder of local advocacy group OutCast—and other trans activists were stopped near the French Embassy and asked to show their IDs. When police officers realised the mismatch between the activist's gender expressions and their identity documents, they began to verbally abuse and beat the group. More police officers arrived, only to further inflict violence, and called upon bystanders to assist in harming the group, shouting "kill them, they are sodomites". The trans man was refused service at two hospitals and told to go to a local women's hospital, where he was also initially rejected for looking like a man before being given minimal medical assistance.

On 22 December 2020 police broke into the home of a local activist and allegedly searched for compromising material. The same day, another activist from the local SOGI advocacy organisation called Damj, was picked up by police and violently interrogated for three hours to force him to disclose information on the activities undertaken by Damj. Damj alleges that such targeting is common, with their offices in Sfax being burgled in 2019 and police constantly monitoring the place. The head of Damj noted in February 2021 that his home had been ransacked four times since 2018. On 18 January 2021 a member of Damj was arrested for raising their middle finger to the police during a peaceful protest, and charged with "insulting a police officer" and "committing an immoral act in public". After three days in Bouchoucha Detention Center the activist was released pending trial.⁶¹

The French-speaking Newspaper *Courrier International* wrote an article about an "administrative mistake" resulting in the recognition of a same-sex marriage by a Tunisian court in May 2020. Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

It sounded like a victory for Tunisian homosexuals. On 24 April, the Shams association, which fights for the decriminalisation of homosexuality, announced that a Franco-Tunisian gay couple married in France had succeeded in having their union registered on the Tunisian national's birth certificate. This was a first.

Since then, however, the Tunisian authorities have insisted that it was a "mistake" by a municipal official. Relayed by the main news websites in Tunisia, the announcement has caused controversy, as reported by Business News. "For some, even talking about it is nothing short of heresy. Some have strongly condemned the media coverage of the news, [especially as it came] on the first day of the month of Ramadan", writes the independent site.

The president of the Shams association, Mounir Baatour, refused to reveal the identity of the newlyweds or the name of the municipality that tacitly recognised the gay marriage, but Nawaat managed to consult the birth certificate of the 26-year-old Tunisian. "It clearly states that [he] married a Frenchman",

⁶¹ International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA), [Our Identities under Arrest, December 2021](#), pp. 111-112

confirms the news website, which was also keen to guarantee the anonymity of the bride and groom so as not to compromise their safety.⁶²

In May 2020, the online media RightsAfrica, an initiative of the African Human Rights Media Network, published an article titled “Same-sex marriage is still illegal in Tunisia!”, echoing a message of a coalition of thirty-five LGBTQ+ and human rights groups reacting to erroneous media reports about an alleged recognition of a same-sex marriage by the Tunisian authorities.⁶³ The article explained that:

The false belief began spreading in late April after the Tunisian LGBTQ+ rights group Shams posted on Facebook that the French marriage of French man and a Tunisian man had been registered in Tunisia. That bureaucratic action apparently was either a mistake or a misunderstanding, but it led to news coverage implying a change in Tunisia’s position on same-sex marriage. The misimpression was conveyed by headlines and articles in many publications [...]

Despite the news that has been circulating across news platforms and social media lately, same-sex marriage is still illegal and not recognized in Tunisia, regardless of where the marriage has occurred.

We urge journalists, allies, and other organizations to stop sharing this misinformation and to get information and news from reliable sources and from activists who are in touch with the situation.⁶⁴

Human Rights Watch (HRW) also reported on the case of Kef (see ILGA report above) in its annual report on the human rights situation in 2020 in Tunisia:

On June 6, the Kef First Instance Tribunal sentenced two men charged with sodomy to two years in prison, reduced to one year on appeal. The men had refused police’s demands to subject them to an anal exam, an invasive and discredited practice that Tunisian authorities routinely use to “prove” homosexual conduct.⁶⁵

The online media RightsAfrica published an article in August 2020 about the decision of an appeal court to uphold the conviction of the two men sentenced by the Kef First Instance Tribunal:

A Tunisian appeals court let stand the sodomy conviction of two men who ended up in police custody in June when they had a falling out over a loan. Activists protested the decision as a violation of the men’s human rights.[...]

Hassina Darraji, the lawyer who represented the men before the appeals court, said she brought to the court’s attention the defendants’ statements that the police bullied, insulted, and threatened them to get them to confess to being gay, and attempted to persuade them to undergo an anal exam, purportedly to test for sodomy, which they refused. At the trial, Darraji said, the defendants pleaded not guilty to all charges and refuted allegations related to their sexual orientation.[...]

⁶² Courrier International, [Homosexuality. In Tunisia, an administrative "error" makes a gay marriage official for the first time](#), 05 May 2020 [Homosexualité. En Tunisie, une « erreur » administrative officialise pour la première fois un mariage gay]

⁶³ See RightsAfrica, [Same-sex marriage is still illegal in Tunisia!](#), May 2020

⁶⁴ RightsAfrica, [Same-sex marriage is still illegal in Tunisia!](#), May 2020

⁶⁵ Human Rights Watch (HRW), [World Report 2021 - Tunisia](#), 13 January 2021

The two defendants in the current case petitioned the Court of Cassation, the highest instance court in Tunisia, to review their conviction. Damj said that this is the first time a sodomy case has reached the country's cassation court.⁶⁶

2021

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and found:

On average, the interviewees [6 Tunisian lawyers and one case worker] mention working on 7-10 cases each year. Interviewees in Tunisia estimate a total of 40 -100 court cases on 230 charges per year based on their experiences, with the highest number of cases in Sousse. The numbers and the trajectory taken by these cases have changed (sic) throughout the years, and this has also affected statistical accuracy. For example, one interviewee noted that, "Article 230 wasn't used as much before [...] before the revolution, LGBT revolution in Tunisia, was something unspoken of and most of the time even if they arrested someone who was gay they would find any other article to use rather than Article 230 to kind of preserve their 'dignity or privacy'." They continued by noting that current case scenarios are very different, as "it's very new that it's being used this much and now there are around a hundred cases per year [under Article 230]." These conditions lead to increasing numbers of court cases: the NGO Shams reported that in May of 2021, statistics from Tunisia's Ministry of Justice had been released which showed that 1225 people had been jailed due to their sexual and gender identities since 2011, thus providing official statistics on these cases. The decade of official statistics is seemingly half that of the Tunisia interviewees' self-reporting of approximately 230 court cases per year.⁶⁷

The same source reported:

One interviewee [among 6 Tunisian lawyers and one case workers participating in the study] had conducted a base-line assessment of this for the summer of 2020, and stated, "If we just based on the past three months of summer from the investigation, the early investigation, data investigation until actually getting to the courts the biggest population that has been targeted recently is trans people." Queer cis men in Tunisia are also at risk if they fail to fit into heteronormative conceptions of masculinity. "Most targeted... gay men, trans women, etc. Well for me it's all the LGBTQ community but especially gays and trans persons due to their apparent effeminacy." Police use visual identifiers for this, where judgement of effeminacy is because of the "outfit, or based on how they speak, how they behave"" However, of the three countries, Tunisia is the only country in which cases against cis women were mentioned. One interviewer wrote that "most of the cases are actually gay men, like once in a while or twice a case of women —well like cases of two women— but most of the time it has always been gay men who are more persecuted." Another interviewee observed that there has been an increase in the targeting of cisgendered queer women in the country [...]"⁶⁸

⁶⁶ Rights Africa, [On appeal, Tunisian court imposes 1-year prison term for gay sex](#), 6 August 2020

⁶⁷ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 28-29

⁶⁸ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 47-48

The same source further noted on the role of digital evidence in prosecutions:

It is fundamental to understand how authorities use digital evidence in conjunction with other evidence to push through prosecutions. The report shows linking digital evidence with other types of evidence, especially confessions, produces the highest rates of conviction and the most stringent sentences. Digital evidence reduced the workload for prosecutors, police and investigators: they need only gather a picture, app or a video from a phone to make a case.⁶⁹

Elaborating on the type of digital material that the police considers to be a proof, the same source reported that:

In Tunisia, similar messages with a friendly context have been used in court, and the prosecution has implied that friendliness is coextensive with queerness. “I remember,” one lawyer shared, “that there were some screenshots of discussions, of messages like, ‘I like you.’ Even it’s not sexual or even it’s not an invitation to sex... Even messages [that are] emotional I would say, emotional messages, etc., are interpreted like ‘This is the identity. This is what you want. And we can prove that you are a homosexual.’ You know, this is the logic behind this.” In Case T3 [Tunisian lawyer interviewed for the study], the lawyer’s notes in the case file notes stated that:

“While searching the accused phone, the police agent found the following applications: messenger application, tinder, and the gallery of pictures. By searching them, no precise proof of sexual offer for money was found. Nevertheless, some discussions on messenger that barely could be considered as flirting with men were found. Messages such as ‘you look beautiful’ and ‘you are charming’, and ‘I like you’.[...]

MISPLACED TRUST IN DIGITAL EVIDENCE

Digital evidence is described in some interviews as “hard evidence.” Lawyers in each country explained the difficulty in challenging evidence that is seen as so accurate and so incriminating by judges or prosecutors. There is a conflation between the existence of digital evidence for one thing—same-sex attraction or conduct associated with the LGBTQ community—and proof, which is required by these laws, of the actual physical sexual acts themselves. “It’s hard to dispute the digital evidence in general in front of the judge or in front of the prosecutor because it is hard evidence, they have it in their hands [...] they have the phone, so it is very clear that this evidence does exist.” Tunisian interviewees talk about how they try to bring constitutional and procedural challenges to the use of this type of evidence in court, but due to the perceived power of digital evidence, this is often impossible. “You try and ask them to not admit it because of privacy basically, confidentiality, etc. and all the other laws, it’s very hard for them to actually not take it into consideration, because it’s also a kind of a proof that is irrefutable.” [...]

Screenshots are generally defined as a visual information capture of all or a selected part of what is seen on a screen and may be taken from either the phone of the accused or an informant. They can be produced through a built-in function of most phones and laptops, and offer a low-tech method to create hard evidence for court proceedings. Screenshots are significant in evidence-gathering and are frequently presented in court by prosecuting teams. They are popular because they are wrongly viewed as irrefutable and concrete, and have a visceral impact on judges. They are also an alternative to technical data extraction of the evidence, which may be required by the laws of evidence but in practice, might not be enforced:

⁶⁹ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 102

“Under the criminal procedure law, in order to have the evidence included in the case they need a technical expert to collect the evidence, and to prove that the evidence do belong to the person. And since the [app users] usually use a fake name and don’t use their [real] names on dating apps so essentially you can’t relate these screenshots to the person himself”.⁷⁰

The same source further reported:

A search may also start with the phone’s gallery, since visual cues may be easier for officers to quickly assess. When something turns up, they dive deeper: in Tunisia, “They look for everything, the application for the camera first, first the camera and then other applications.” As another Tunisian lawyer described it: “First thing they do obviously they go into the photos and try to find photos and videos; [then] they go through conversations; they open the conversations hoping to find something; and now since they started knowing about Grindr, [...] they go into Grindr”.⁷¹

The same source reported about technical evidence from other sources than the phone of the suspect:

As noted in the section on Gathering Digital Evidence, investigation tactics are generally low-tech and focus on material directly available on a digital device during a search. However, interviewees in Tunisia reported participating in cases that included information gathered from national telecommunications service providers. This was also mentioned in one interview in Lebanon. In these instances, the telephone logs are used to connect the accused to other individuals. One interviewee explained: “I’ve seen in the files listings of... the different calls that go between two different phones [in a case].” There was no evidence of successful requests for data as introduced by social media, dating app, or messenger, and chat-based application companies. This is not to suggest that such requests have not been made, but rather that they were not reported in either the studied cases or by the interviewees.⁷²

In March 2021, Amnesty International reported on the arrest of a prominent LGBTI rights activist the same month (on this case, see also section [II. Treatment by State Actors](#)):

On 27 February [2021], Rania Amdouni went to a police station to file a complaint about the continuous harassment she has faced from the police in relation to her LGBTI activism and her participation in protests against police violence and deteriorating socio-economic conditions. Instead of registering her complaint, she was arrested. [...]

According to Rania Amdouni’s lawyer, when police officers at the Septième police station in downtown Tunis turned her away, she left – distraught – and began shouting in the street, swearing at the police. Police officers then arrested her and held her at a detention centre for two days.

On 1 March, without being questioned or given the right to challenge her detention, Rania Amdouni was formally charged with “insulting a public officer while he was carrying out his duties,” punishable by up to one year in prison under Article 125 of the Penal Code. She was also charged with “causing embarrassment and disruption,” and “visible drunkenness.”

⁷⁰ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 106-107-108

⁷¹ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 115

⁷² Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 110

On 4 March, the District Court of Tunis convicted her on all three charges and took her into custody. She is currently imprisoned at the Manouba women's prison in Tunis.⁷³

Human Rights Watch (HRW) reported on the same events in its World Report 2022 as follows:

On March 4 [2021], a Tunis court sentenced Rania Amdouni, a queer and feminist activist, to six months in prison and a fine for “insulting a public officer during the performance of his duty, “causing embarrassment and disruption,” and “apparent drunkenness.” Police arrested Amdouni on February 27 for shouting outside a police station, after officers had refused to register her complaint relating to repeated harassment to which she said police officers had subjected her on the street and online. On March 17, the Court of Appeal in Tunis upheld her conviction and suspended her prison sentence. After her release, Amdouni obtained asylum in France.⁷⁴

The online media Rights Africa also published an article about the release of LGBT rights activist Rania Amdouni in March 2021:

A Tunisia court ordered the release Wednesday of Rania Amdouni, the women's rights defender and LGBTI activist who had been jailed for shouting at police.[...]

Her release was welcomed by the activist groups Solidarité Internationale LGBTQI (SIL) and the Committee for the Respect of Freedoms and Human Rights in Tunisia (CRLDHT).

In a joint statement, they said that Amdouni's sentence had been reduced to a fine of 200 dinars (61 euros). They gave credit to quick action by supporters demanding Amdouni's release.⁷⁵

In December 2021, the International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA) published a report on laws criminalising same-sex sexual relationships and wrote about the enforcement of criminalising provisions in Tunisia:

ILGA World notes 30 individual examples of criminal enforcement, police harassment, and other forms of official State-backed targeting between 2012 and 2021. These represent only a few disaggregated cases, however, with some organisations putting forward much higher numbers.

In 2020, a Tunisian organisation called Damj reportedly provided legal assistance to LGBT people at police stations in 116 cases and responded to 185 requests for legal consultations. “These figures are five times higher than those we recorded in 2019, indicating an alarming increase in the persecution of LGBT people during the Covid-19 pandemic,” said one member of the organisation.⁷⁶

The same source listed examples of enforcement of laws used to criminalise LGBTQI Tunisians:

⁷³ Amnesty International (AI), [Tunisia: Release prominent LGBTI rights activist jailed for insulting police](#), 16 March 2021

⁷⁴ Human Rights Watch (HRW), [World Report 2022 – Tunisia](#), 13 January 2022

⁷⁵ Rights Africa, [Tunisian court releases LGBT rights activist Rania Amdouni](#), 18 March 2021

⁷⁶ International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA), [Our Identities under Arrest](#), December 2021, p. 108

On 23 January 2021 an activist was detained by police after leaving a meeting, verbally abused and photographed before being released. During a later protest he was outed online with the photo police had

taken and his personal details were made public, which led him to flee the country for fear of further targeting from security forces. He had previously spent three months in prison in 2018 on charges of “sodomy”.

On 8 February 2021 a 23-year-old queer activist was detained during the ongoing anti-government protests

and taken to an undisclosed location, with no access to a lawyer. He was repeatedly beaten by an official who said “we’ll keep you here for 10 years, and your torture will be our duty”. After 10 days in an overcrowded cell in Mornag Prison he was given a five-month suspended sentence by the First Instance Tribunal in Tunis.

On 9 February 2021 a transgender man was picked up by police after attending a press conference and severely beaten. When they also saw his ID and the difference between his legal identity and his gender expression, they further abused and ridiculed him, then took him to a local police station where other officers present were encouraged to kick and beat him too. He managed to get up and flee the scene.

Another activist was arrested on 27 February 2021 when she went to a police station in Tunis to lay a complaint about the threats and harassment she had faced from members of the security forces. She was arrested for “insulting a public official”, “abuse of morals”, and “apparent drunkenness” and sentenced to six months in prison under Article 125 of the Penal Code. She was released by an Appeals Court and her sentence was reduced to a 200 dinar (USD 72) fine, after the advocacy of Damj, and widespread international outcry. Several UN Special Procedures also wrote to Tunisian officials to decry this and other arrests.

In early March 2021 an activist working for Damj was targeted by an unknown person, who phoned his landlord to say that if he was not evicted immediately, then both the landlord and the activist would face prosecution. It is not clear if this was a case of targeting from a State actor, or one of many cases of extrajudicial targeting and harassment this activist is said to have faced.

On 5 June 2021 it was reported that National Security Police in Nasr District raided, with the backing of the

Public Prosecutor, an apartment believed to be used for “secret prostitution and sodomy”. Four individuals were allegedly “caught in the act” and arrested.

On 21 October 2021 the head of Damj was severely beaten by two men identifying themselves as police.

While being assaulted, the attackers told him “this happens to those who insult the police and make a complaint”, and stole his valuables. He was not arrested or charged, and thus this incident is not included in the tally of cases in the Enforcement Overview above, though he required more than two weeks of close monitoring from doctors as a result of his injuries.⁷⁷

In its 2021 Country Report on Tunisia, the US Department of State listed arrests of LGBTQI Tunisians that occurred during the year:

On January 8, police arrested Zizi, a transgender woman, and four other transgender individuals on charges of public indecency and disturbing public morality. The Damj Association issued a statement on January 12 condemning the

arrests and calling for the release of Zizi and other LGBTQI+ individuals in detention. The organization noted police officers denied Zizi access to a lawyer despite her request. On January 23, the First Instance Court of Sousse released all five individuals and dropped all charges against them.

⁷⁷ International Lesbian, Gay, Bisexual and Trans and Intersex Association (ILGA), [Our Identities under Arrest, December 2021](#), pp. 111-112

After self-described queer activist Rania Amdouni participated in antigovernment protests in January and February, some police unions posted photographs of her on Facebook groups and called for her arrest. On February 27, Amdouni went to a police station in downtown Tunis to press charges against members of the security forces she claimed harassed and followed her. Police arrested her after she reportedly had a verbal altercation with a police officer at the station. On March 4, a Tunis court sentenced her to six months in prison for insulting a public servant.

Amdouni's supporters held a small protest outside of the Tunis court, and civil society organizations denounced her arrest and called for her release. On March 17, the Appeals Court of Tunis fined Amdouni 200 dinars (\$75) and ordered her release. On June 24, she announced her departure from the country to seek asylum in France.

On March 22, Damj Association president Badr Baabou reported that four unidentified individuals physically assaulted him on March 10, targeting him for his LGBTQI+ rights advocacy. According to Damj, police officers in a vehicle approximately 65 feet away failed to respond to the physical assault or verbal harassment. Baabou filed a complaint with the public prosecutor's office against his assailants and the security officials who allegedly did not intervene.

According to the Damj Association, Baabou was assaulted again, this time by two police officers in downtown Tunis, October 21. According to public reports, the officers struck Baabou with multiple blows to his body and face. The government did not publicly comment on the case. On December 1, the National Police general inspector opened an investigation into the case and requested Damj's assistance in collecting documents and statements related to reports of police abuse.

On October 26, the First Instance Court of Tunis sentenced the president of LGBTQI+-rights group Shams Association, Mounir Baatour, in absentia to one year in prison for a 2019 Facebook post that allegedly expressed "contempt of the Prophet." Baatour has been residing outside Tunisia since 2019 after reportedly receiving death threats.⁷⁸

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterward that:

A large part of Tunisian legislation is not in conformity with the 2014 Constitution and international and regional instruments for the protection of human rights, in particular article 230 of the Penal Code, which criminalizes anal penetration, and the section of the Penal Code entitled "attacks on morals", which contains article 226 bis, which penalizes without really defining it "offences against good morals or public mores by gesture or word" and article 226 which penalizes "public indecency". According to [his] information, however, these articles allow the judiciary and the security forces to prosecute and convict people on the basis of their mere non-normative appearance or what could be associated with behaviour suggesting homosexuality or by having access to information relating to their personal data. The criminal treatment of these cases seems to reflect a moral judgment of the facts rather than a legal judgment, and

⁷⁸ U.S. Department of State, [2021 Country Reports on Human Rights Practices: Tunisia](#), 03 March 2022, pp. 32-33, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

when they apply article 230 judges often argue their decision with moral statements and arguments aimed at recalling social order and social roles.[...] ⁷⁹

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and noted:

Although clothing is frequently mentioned, especially in cases in which the accused is a trans person, make-up and gold jewellery are also regularly mentioned. Broadly anything deemed not to fall in-line with patriarchal and heteronormative frameworks. The use of these types of evidence is very common especially if there are prostitution charges included. In the case files, 4 of the Egyptian cases, 4 of the Tunisian cases, and 2 of the Lebanese cases included clothing and jewellery items as part of their case files.

Condoms and lubricants are generally known to be used by all types of couples and folks having sex, regardless of sexuality, but are very often used to suggest anal sex or sodomy, and have therefore led to criminal charges in each of these three countries. In Tunisia, the interviewees [6 Tunisian lawyers and one case worker] have noted that even something as inconspicuous as a logo of an LGBTQ organisation on a laptop has been used as evidence as proof the defendant is part of the queer community: “they considered it as a piece of proof, you know, that you... as like you belong to this community and that you are homosexual, so you are convicted.” As occurred with digital evidence, these pieces of physical evidence help enhance the narrative of LGBTQ sexuality, rather than related to any evidentiary requirement under the elements of each crime in each country. One of the lawyers interviewed reflected on this process and its inherent flaws, noting that: “I showed up one time to make a point, because when you hear that for the very first time it’s extremely annoying. I said, ‘you said that this is a conditional evidence of a crime’ I got [this condom] from the pharmacy outside of here”. ⁸⁰

2022

In February 2023, Amnesty International published news about the prosecution of two individuals arrested in December 2022. Using an online translation tool, [deepl.com](https://www.deepl.com/), the following information was translated from French into English:

On 21 December, the Court of First Instance in Grombalia sentenced a transgender woman to three years in prison and a gay man to one year. Ten days earlier, the El Gorjani judicial police raided a residence in Hammamet and arrested eight people on suspicion of homosexual relations. According to lawyer Safouen Jouili, they were questioned without legal assistance. Two of them were charged under article 230 of the Tunisian Penal Code, which criminalises consensual same-sex relations and carries a maximum sentence of three years' imprisonment. The others were released for lack of evidence. ⁸¹

⁷⁹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity – Institutional violence](#), 18 June 2021

⁸⁰ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 129

⁸¹ Amnesty International (AI), [Tunisia. Prison sentences against two LGBTI people must be overturned](#), February 2023 [Tunisie. Les peines d'emprisonnement prononcées contre deux personnes LGBTI doivent être annulées]

January – May 2023

Amnesty International wrote in its International Report on Human Rights that in the reporting period 2022/2023, based on information provided by the Damj, a Tunisian rights group that defends LGBTI rights, “courts tried people under Article 230 in at least 47 separate cases”.⁸²

76 crimes published an article in April 2023 about the release of a Tunisian trans-woman arrested in December 2022:

Maya, a Tunisian trans woman, has been released from prison after more than 32,000 people signed an online petition demanding her release.[...]

All Out stated :

“When thousands of people come together, they can truly make a difference.

“In December 2022, Maya, a trans woman from Tunisia, was arrested with four other individuals. She was sentenced to six months of jail under article 230 of the Tunisian penal code, criminalizing same-sex relationships, and put in a detention center for men.”⁸³

In January 2023 the German Federal Office for Migration and Refugees (BAMF) reported based on press articles that:

As reported in press articles, an appeals court ruled on 02.01.23 that the prosecution of a queer activist in a high-profile LGBTIQ case was legally flawed. The NGO Damj (Tunisian Association for Justice and Equality), which is involved in the queer community, and a judiciary spokesperson stated that the charges had been dropped due to a procedural error. The case dates back to 2015, when six students were charged with sodomy, sentenced to three years in prison and banned from the Kairouan region.⁸⁴

II. Treatment by State Actors

a. Public statements by government officials

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported that:

Several interlocutors noted that the liberation of speech following the revolution and the rise of conservative and populist movements has led to an increase in hate speech and incitement to violence against women, LGBT people and people with beliefs that do not conform to the majority belief. This discourse feeds on the very deteriorated economic and social situation as well as the health crisis caused

⁸² Amnesty International (AI), [International Report 2022/2023](#), 14 April 2023, p. 368

⁸³ 76crimes, [Tunisia frees trans woman serving a 6-month sentence for whom she loves](#), 27 April 2023

⁸⁴ German Federal Office for Migration and Refugees (BAMF), [Briefing Notes](#), 9 January 2023, p. 10

by COVID-19. Politicians, parliamentarians, clerics, and the media tend to project a stereotypical, stigmatizing, and negative image of LGBT people that fuels hatred and intolerance within society, as illustrated by homophobic messages and death threats exchanged in discussion groups in connection with the above-mentioned speeches and representations.[...]

The absence of legal sanctions [against harassment on social media], coupled with the fact that many officials and politicians, including members of the Tunisian parliament, contribute to hostile rhetoric against the LGBT community, has led to the large-scale normalization of homophobic hate speech across the country. Tunisian law leaves limited options for victims of hate crimes, including crimes against the LGBT community. While attacks can be punished as "assault" or "homicide", Tunisia's penal code does not contain any provisions specifically defining or criminalizing hate crimes against LGBT people.⁸⁵

In June 2022, Euronews published an article in French about a theatre play co-produced by the LGBT rights association Mawjoudin.⁸⁶ Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English: "Tunisian President Kais Saied, who has held all powers since his coup on 25 July 2021, is opposed to the decriminalisation of homosexuality, while speaking out against imprisonment".⁸⁷

b. Homophobia and transphobia in government institutions (incl. state-owned media, within the police, in the prison service, in the judiciary)

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and found with regards to Tunisia:

The Tunisian police are not allowed to use fake profiles, and when one lawyer asserted that they had, "They denied it." This makes mounting a defense problematic, as, "in our penal system the lawyer cannot do the search [...] we cannot have access to the profiles. All the work is done by the police so our work is so hard to [prove] that it's [through] a fake profile." Of course, this means that the police can sometimes fabricate or obscure details of their investigation: "In the police report they are not really clear, I mean, in the police report they try to hide that part of the story. So they make it just as, there is a person who reported to the police that there is a homosexual, etc".⁸⁸

For more information see also section II., [c. Violence](#) and [d. Online harassment](#).

⁸⁵ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Hate speech*

⁸⁶ See Euronews, [*In a Tunisia that criminalises homosexuality, a first theatre play on the fight for LGBTQ rights*](#), 25 May 2022 [Dans une Tunisie qui criminalise l'homosexualité, une première pièce de théâtre sur la cause LGBTQ]

⁸⁷ Euronews, [*In a Tunisia that criminalises homosexuality, a first theatre play on the fight for LGBTQ rights*](#), 25 May 2022 [Dans une Tunisie qui criminalise l'homosexualité, une première pièce de théâtre sur la cause LGBTQ]

⁸⁸ Article19/Afsaneh Rigot, [*Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia*](#), 7 March 2022, p. 95

c. Violence

2020

The US Department of State wrote in its 2020 Country report on Tunisia that:

On January 13, an officer from the Seventh Police Station in downtown Tunis and two accomplices allegedly assaulted three transgender women, using Tasers and their fists. They left one individual, nicknamed Frifta, with serious injuries, including internal bleeding and a skull fracture, according to the LGBTI-rights organization Damj. Damj, in partnership with Lawyers without Borders (ASF), assisted Frifta in seeking medical care and legal recourse. According to Damj, Frifta filed a complaint against an officer on January 11 for harassment of sex workers and encountered the same officer while walking in Tunis two days later with friends. The officer, accompanied by two others, attacked her in retaliation for her earlier complaint. The Ministry of Interior suspended the primary officer involved and opened an internal investigation, while the Ministry of Justice General Prosecutors' Office, initiated a separate criminal investigation. Both investigations remained underway. On June 17, Damj said the court in El Kef issued prison sentences in three cases under Article 230, which criminalizes same-sex relations. In one case an individual who filed a complaint of police abuse was charged under articles criminalizing homosexuality and offending a police officer. On July 28, the appeals court upheld the conviction of two men accused of sodomy but reduced their sentence to one year in prison. The First Instance Court of El Kef initially sentenced the two men on June 3 to two years in prison for homosexuality. A lawyer provided by ASF assisted the defendants and led the appeal process.⁸⁹

2021

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and found:

In January 2021, amid interviews [with 6 Tunisian lawyers and one case worker] for this report, protests erupted across Tunisia. Ignited by worsening economic conditions, the COVID-19 pandemic, police brutality, and the killing of a protestor. These protests later included the targeting of LGBTQI protestors by police unions in particular. This led to an ongoing political crisis, resulting in Tunisian President Kais Saied taking over all executive powers, dismissing the government, and freezing parliament.⁹⁰

In March 2021, Human Rights Watch (HRW) reported on the arrest of LGBTQI activist Rania Amdouni the same month, preceded by months of harassment (digital and off-line) by police officers:

Amdouni was leaving a restaurant in downtown Tunis on February 27 when a police officer in the street began verbally harassing her and ridiculing her based on her gender expression, which prompted her to go to the nearest police station and file a complaint. "Amdouni has been facing consistent harassment by

⁸⁹ U.S. Department of State, [Tunisia 2020 Human Rights Report](#) - 30 March 2021, p. 34, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

⁹⁰ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 17

police in the street and online for months, which caused her to suffer severe mental health consequences and break down,” Hanchiri said Mohammed Amin Hdeiji, a lawyer who accompanied Amdouni to the 7^{eme} police station on February 27, told Human Rights Watch that police officers in the station ridiculed Amdouni’s appearance and harassed her based on her presumed sexual orientation. “Eight police officers surrounded her and repeatedly insulted her, and one told her, ‘You are a homosexual, you will not win against us, and we will not allow you to defame police officers,’” Hdeiji said. [...]

In an interview in February before her arrest, Amdouni told Human Rights Watch that since January she has been subjected to online harassment, bullying, and threats of violence, including death and rape. Human Rights Watch reviewed many of the Facebook posts, including by individuals who identified themselves as police officers, harassing Amdouni based on her gender expression and presumed sexual orientation. A member of parliament, Seif Eddine Makhoulf, ridiculed her on his personal Facebook page based on her gender expression. Amdouni has since deleted her social media accounts. On January 11, the police searched for Amdouni near her residence, and asked neighbors if she was there, which prompted her to leave her neighborhood and hide out, she said: “I don’t feel safe, even in my apartment. Police came looking for me in my neighborhood. My life is threatened, and my mental health is deteriorating. People are staring at me in the street and harassing me online.” The right to privacy and nondiscrimination are reflected in Tunisia’s 2014 constitution under article 24 and article 21, respectively. However, the absence of accountability and reliable complaint systems, as well as the lack of nondiscrimination legislation based sexual orientation and gender identity under domestic law, limit LGBT people’s access to redress, creating an environment in which police may abuse them with impunity, Human Rights Watch said.⁹¹

2022

The US Department of State wrote in its 2022 Country Report on Tunisia about the criminalisation of homosexuality:

Human rights groups reported an increase in arrests of LGBTQI+ individuals, as well as an increase in cases of societal harassment. Allegations included reports (sic) some police labor unions harassed and endangered LGBTQI+ participants in January and February [2022] protests by posting their home addresses or pictures online (doxxing) and engaging in online hate speech. Police faced no repercussions for doxxing peaceful protesters.⁹²

d. Online harassment

2020

No relevant information could be found amongst the sources consulted within the time frame for this report.

⁹¹ Human Rights Watch (HRW), [Tunisia : Harassment, Arbitrary Detention of LGBT Rights Activists](#), 9 March 2021

⁹² U.S. Department of State, [Tunisia 2022 Human Rights Report](#) –, 23 February 2023, pp. 30-31, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

2021

In March 2021, Human Rights Watch (HRW) reported about the arrest of LGBTQI activist Rania Amdouni the same month, preceded by months of harassment (digital and off-line) by police officers:

Amdouni was leaving a restaurant in downtown Tunis on February 27 when a police officer in the street began verbally harassing her and ridiculing her based on her gender expression, which prompted her to go to the nearest police station and file a complaint. “Amdouni has been facing consistent harassment by police in the street and online for months, which caused her to suffer severe mental health consequences and break down,” Hanchiri said Mohammed Amin Hdeiji, a lawyer who accompanied Amdouni to the 7^{eme} police station on February 27, told Human Rights Watch that police officers in the station ridiculed Amdouni’s appearance and harassed her based on her presumed sexual orientation. “Eight police officers surrounded her and repeatedly insulted her, and one told her, ‘You are a homosexual, you will not win against us, and we will not allow you to defame police officers,’” Hdeiji said. [...]

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⁹³ Human Rights Watch (HRW), [Tunisia : Harassment, Arbitrary Detention of LGBT Rights Activists](#), 9 March 2021

⁹⁴ U.S. Department of State, [Tunisia 2022 Human Rights Report](#) –, 23 February 2023, pp. 30-31, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

In its World Report 2023 about events which occurred in 2022, Human Rights Watch (HRW) reported that:

State actors in Tunisia have undermined lesbian, gay, bisexual, and transgender (LGBT) people's right to privacy with digital targeting, namely online harassment and "outing," and monitoring social media. Authorities sometimes rely on illegitimately-obtained digital evidence in prosecutions. Human Rights Watch documented cases where government digital targeting has resulted in crackdowns on LGBT organizing, as well as arbitrary arrests. As a result of online harassment, LGBT people reported being forced to change their residence and phone numbers, delete their social media accounts, flee the country for risk of persecution, and suffer severe mental health consequences.⁹⁵

e. Discrimination

i. Access to state-owned housing

No relevant information could be found amongst the sources consulted within the time frame for this report.

ii. Access to public health services

Minority Rights Group International (MRG) published a report on the impact of Covid-19 on the rights of minorities in Tunisia in 2021.⁹⁶ Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

Their access to health is also severely compromised according to surveys conducted by civil society in 2018 and 2021. More than half of LGB people and three quarters of trans people "did not go to the doctor or take a medical test for fear of mockery, negative judgements, abuse by medical staff, or fear that legal action on the basis of Article 230 of the Criminal Code would be taken against them".[...]

According to the analysis of our qualitative data, the people belonging to this community did not have access to three rights during the pandemic: the right to health, the right to justice, and the right to security and physical and moral integrity. Indeed, the breakdown in the continuity of care during the general confinement led to a worsening of chronic and acute illnesses. Focus groups conducted with the LGBTQI++ community and with sub-Saharan migrants revealed that members of these groups living with HIV/AIDS did not have access to their usual treatment due to a stock-out. This stock shortage also affected a number of products which, although not directly linked to the pandemic, were used intensively, such as cleaning products and contraceptives, with women in all groups being the first to suffer. With regard to access to care following infection, the saturation of intensive care services has led to discrimination against certain minorities. During the discussion group with people from the LGBTQI++

⁹⁵ Human Rights Watch (HRW), [World Report 2023](#), 16 January 2023, *Country Chapter Tunisia*

⁹⁶ See Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

community, some of them confirmed that they had not used public health services for fear of being stigmatised or rejected by the medical profession; transgender people also stated that they had been denied access to care for Covid-19 because their physical appearance did not match what was on their identity card. Even if this reality was already present, the pandemic created an increased need to consult a need to see a doctor, increasing their risk of the virus going be undetected or not seek treatment.⁹⁷

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and published preliminary observations on access to health, echoing a survey carried out by civil society in 2021, revealing that:

[...] over half of LGBT persons and three-quarters of trans people did not go to the doctor or do not undergo medical tests for fear of mockery, negative judgments, abuse by medical staff, or fearing that legal action based on Article 230 of the Penal Code would be taken against them. Degrading treatment, lack of confidentiality, regular violations of medical secrecy, as well as exclusion from the specific needs of the community have been reported by LGBT people who have used health facilities, especially when it comes to sexual and reproductive health. [...]

During [his] visit, [he] heard many testimonies of a state of extreme anxiety, anxiety, and the negative impact of the prevailing stigma on self-esteem. More than half of LGBT people surveyed in a 2018 study had attempted suicide at least once and nearly half had self-harmed at least once in their lives. Several civil society organizations offer psychological assistance and support, but it appears that access to State support services is limited due to a lack of capacity and qualified personnel. I am also concerned about testimonies gathered during the mission of breaches of medical confidentiality by psychologists who revealed sexual orientation and/or gender identity to their patient's family or who had pathologizing care for LGBT people, as if they needed to be "treated" for an illness.⁹⁸

The same source reported about the situation of trans people that:

[He] notes with concern the inability of trans people to access hormonal treatments and gender-affirming operations, which are often considered essential treatments for their survival. In Tunisia, doctors are prohibited from prescribing hormonal therapy to trans people who are then forced to self-medicate exposing them to various complications that arise from this practice, including liver diseases and blood stability problems.⁹⁹

The same source reported about people living with HIV that:

⁹⁷ Minority Rights Group International (MRG), [*Impact of Covid-19 on rights of minorities : consultations with civil society*](#), 1 December 2021, pp. 6, 14 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

⁹⁸ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Health*

⁹⁹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Health*

LGBT people living with HIV are recognized by the state as they are among the key populations of global HIV/AIDS programming, particularly men who have sex with men (MSM) and trans women. The prevalence of HIV infection among MSM, estimated at 9.1%, is particularly revealing and shows a great disparity with the adult population of Tunisia aged between 15 and 49 whose infection rate is <1%. [The UN Independent Expert on protection against violence and discrimination] welcome[s] the implementation of a national policy on routine viral load testing for the monitoring of antiretroviral treatment and HIV testing based on voluntary and informed consent. However, [he is] concerned about the situation of the "lost of sight", and in this regard [he has] received reports that people have not continued their treatment because of the stigmatization suffered in contact with health personnel. [He is] also concerned about the criminalisation of same-sex sexual relations and sex work, which increases the exposure of key populations to violence and reduces their ability to file complaints. This criminalization also increases the fear of homosexual and trans populations, as well as sex workers, to be arrested and forces them to go underground, to refrain from participating in HIV prevention and HIV risk prevention programmes or even to possess condoms or lubricants, as this could constitute, for police officers, physical proof of homosexuality or sex work.¹⁰⁰

The US Department of State wrote in its 2022 Country Report on Tunisia about reproductive rights of LGBTQI individuals that they “reported problems accessing health services due to gender identity that did not conform to legal identity documents.”¹⁰¹

iii. Access to state employment (e.g. civil service)

No relevant information could be found amongst the sources consulted within the time frame for this report.

iv. Access to public education

Minority Rights Group International (MRG) published a report on the impact of Covid-19 on the rights of minorities in Tunisia in 2021.¹⁰² Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

The distance learning imposed by the confinement measures has also had a detrimental effect on access to education. The most vulnerable members of these communities do not have the technical and financial resources to ensure the continuity of online education. The focus group conducted with the LGBTQI+

¹⁰⁰ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, *People living with HIV*

¹⁰¹ U.S. Department of State, [Tunisia 2022 Human Rights Report](#), 23 February 2023, p. 26, *Reproductive Rights*

¹⁰² See Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

community revealed that "only 10% of LGBTQI+ people were able to continue their studies at a distance, due to a lack of internet connection and access to computers and electricity".¹⁰³

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and published preliminary observations, notably on the subject of the harassment of LGBTQI pupils, forcing many of them to leave school early:

I am very concerned about this situation and note the lack of knowledge of this phenomenon and of specific measures to combat violence and harassment of LGBT people in schools. Furthermore, I regret that school curricula do not provide specific information on diversity and respect for human rights and sex education programmes in particular with regard to issues related to sexual orientation and violence based on gender identity.¹⁰⁴

III. Societal Attitudes Towards LGBTQI+ Individuals

In April 2020, the Middle East Institute (MEI) published an article in which it referred to a BBC poll from 2019 that found that 7% of Tunisians considered homosexuality to be "acceptable".¹⁰⁵

a. Representation in Media and social media

The online media Pink News published an article in September 2020 relaying an online controversy around homophobic posts by a beauty influencer in Tunisia:

Lady Samara, a beauty influencer in Tunisia, has defended going on a homophobic rant, and calling LGBT+ people "mentally sick perverts", by insisting that she has "lots of gay fans".

Samara, who has almost half a million Instagram followers and 250,000 YouTube subscribers, posted a 23-minute homophobic rant last week sparking outrage online.¹⁰⁶

The online media Rights Africa also published an article on this subject in September 2020, relaying the petition by Tunisian activists "to seek the removal of homophobic social media influencer Lady Samara

¹⁰³ Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021, p. 15 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹⁰⁴ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, *Education*

¹⁰⁵ Middle East Institute (MEI)/Ryan Grace, [Digital security and the LGBTI+ rights movement in Tunisia](#), 22 April 2020

¹⁰⁶ ThePinkNews, [Beauty influencer insists she has 'lots of gay fans' after calling queer people 'mentally sick perverts'. Sure, Jan](#), 17 September 2020

from Instagram, where she has about half a million followers”.¹⁰⁷ The text of the joint statement by Mawjoudin (We Exist), Damj, and Access Now Tunisia was published in the article:

Recently in Tunisia, social media platforms have witnessed a prevalent spread of hate speech and incitement to violence against the queer community, following inflammatory statements by a Tunisian “influencer” called “Lady Samara” on the Instagram platform, who used her influence on her followers to spread hate speech, insult and mockery of the queer community. She played with words so that the incitement was not direct, as she used phrases such as “I do not respect them,” “they lost all their principles”, “a phenomenon that must be addressed.”

In addition to mentioning the names of queer activists and calling them and bombarding them with slurs, which threatened their security and prompted many of her followers to send threatening and insulting messages to these activists who are now suffering from the consequences of her speech, it must be said that she has involved other “influencers” in her counter-attack campaign against the queer community, such as the so-called “lapa” who is known for his hatred towards the queer community and his violent rhetoric against them.¹⁰⁸

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterward that:

Hate speech against LGBT people and incitement to homophobic-transphobic violence also appear frequently in the Tunisian media. After receiving several complaints, Tunisia's Independent High Authority for Audio-visual Communication (HAICA) – in what can be considered the first official reaction of a public institution to violence against the LGBT community – issued a warning against a television channel for homophobic statements in October 2015. Since then, the High Authority has intervened a dozen times in complaints relating to discrimination based on sexual orientation and gender identity in the audio-visual sector. However, this number seems derisory compared to what civil society organizations call a “wave of hate” that finds a particularly fertile ground on social media that is not subject to any regulation.

According to information received during the visit, the 2020 lockdown period was particularly difficult when it comes to hatred against LGBT people. False reports that the coronavirus pandemic is a punishment from God because of homosexuality has indeed been fuelled by audiovisual, social media and mosques. This rumour has sparked a huge wave of hate speech against LGBT people, adding to the anxiety of the pandemic and the anxiety of living confined to an often-hostile family environment.

Influencers have also contributed to the “hunt” for LGBT people on social media. Three of them in particular harassed and disclosed the sexual orientation or gender identity of LGBT people, they asked the people who follow them to take action to stop their activities on social networks. As a result of this call, LGBT people have been harassed by thousands of people on social media, they have had their accounts hacked, their photos and personal data shared in groups, and some have even been physically assaulted.¹⁰⁹

¹⁰⁷ Rights Africa, [Tunisian activists to Instagram : Stifle homophobic Lady Samara](#), 23 September 2020

¹⁰⁸ Rights Africa, [Tunisian activists to Instagram : Stifle homophobic Lady Samara](#), 23 September 2020

¹⁰⁹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, *Hate speech*

b. Representation by influential cultural, political and religious figures

Freedom House wrote in its 2023 Freedom in the World report that in Tunisia, “societal discrimination and laws criminalizing same-sex sexual activity impede active political participation for LGBT+ people, and political parties largely fail to address LGBT+ issues”.¹¹⁰

c. Impact of societal norms on state attitudes

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and explained on Tunisia:

[It is noteworthy to mention here an overall observation from the interviewees [with 6 Tunisian lawyers and one case worker] about the Tunisian criminal system. There is often a push for appeals in each case, and the prosecution and court are aware of those who enforce higher charges in the initial hearing. “Things go a little bit better [at appeals] because in general that’s the philosophy of Tunisian justice. Even in the first instance courts in Tunisia have the conviction that the appeal will change the sentence... I mean it will... but I mean for example if it is three years or two years in the first instance court, it will be like... eight months or nine months in the appeals.” The cases are held in closed courtrooms. In the interviews the prevailing reason for this placement on LGBTQ cases is the morality tinge of the cases: the courts do not want to expose the general public to these cases that are seen as “immoral” and “indecent”.¹¹¹

The same source reported that:

There is a significant lack of accountability governing arrest and prosecution in Tunisia, Egypt, and Lebanon, and protections, if any, afforded to LGBTQ defendants. A number of factors influence outcome, such as: authorities’ perceptions of their cultural roles; political clout of arrestees/defendants; and resource constraints. A repeated theme in the data from the interviews was how untouchable the police are, with their placement as the “protectors of society.” This role was most often reported in interviews from lawyers active in Tunisia and Lebanon. For example, in asking how courts react to illegally gathered digital evidence and confessions, one Tunisian lawyer said that the “work of police for the court is like holy one. Yes, it’s true. It’s the reality.” This creates conditions in which police decision-making and behaviors are rarely questioned; another Tunisian lawyer noted that “the investigation of the police [is seen as being] true and it’s not questionable.”

In all three countries, a dichotomy is set up between the accused and the justice system: on one side, the defendants are framed as subverting morality, and on the other side, the police and the courts are framed as the appointed protectors of morality. A Tunisian lawyer remarked how, “The judges don’t go with us [...] It’s because the police and the judge are in the same team ‘protecting morals, protecting our society.’”[...]

¹¹⁰ Freedom House, [Freedom in the World 2023 – Tunisia](#), 13 April 2023, Section B – Political Pluralism and Participation

¹¹¹ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 36

Part of the impunity enjoyed by the police in Tunisia has also been linked to their powerful unions. Police unions in Tunisia have helped shield those police officers who engage in abusive and violent tactics, including for charges of torture.¹¹²

The same source reported further on occurrences of neighbourhood reports to the police:

One of the less common ways through which queer people end up arrested or prosecuted is through official complaints lodged with the police. These complaints might be filed by neighbors, or from staff at businesses patronized by members of the LGBTQ community. The language of the complaints documented in the case files demonstrates that they are often rooted in homophobia or transphobia. For example, a complaint might allege, “they noticed [something] ‘unusual’... it’s not my word, their words, they use the word ‘abnormal’, ‘unusual’ behavior, something which they deem not conforming to the dominant norm.”

Three of the cases from Lebanon and six cases from Tunisia were initiated on the basis of “suspicious” activities pertaining to the individuals’ appearances, and the individuals looking “effeminate.” [...]

Indeed, arrests most commonly result from these reports in Tunisia, occurring in “many cases”. One interviewee noted that it comes “especially [from] the neighbors... when someone knows that in that floor in that apartment there is a gay person or there is a gay group they tell the police and the police enters the apartment or floor or the café or the bar... sometimes on the street if there is a trans person the police arrest them [...] just for being trans.” One interviewee also pointed out that, in addition to homophobia and transphobia, these reports can be rooted in petty neighborly spats:

“[...] in most of these “moral” let’s say cases, is that neighbors for example if someone who’s on top of you or beneath you is annoyed by some noise or if there are a lot of people coming in and out or if someone is throwing a party and they are annoyed and they call the police, and when the police comes there and they

see something that they dislike [...] they would [use] whatever they can find to basically arrest these people”.¹¹³

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterward that during the visit, “[he] was informed that issues relating to sexual orientation are generally considered to be extremely sensitive, with some stakeholders describing them as taboo. This appears to be related to widespread resistance to public scrutiny of sexuality issues, with comprehensive sex education being a consistently cited example in meetings with State and non-state stakeholders”.¹¹⁴ The UN Independent Expert further noted that:

There is a need to work on a better methodological and linguistic understanding of issues related to sexual orientation and gender identity. All interviewees recognized that sexual and gender diversity is part

¹¹² Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, pp. 64-65-66

¹¹³ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, “Suspicious Activity”: Neighborhood Reports and Surveillance, p. 97

¹¹⁴ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, Introduction

of human nature, but all referred to the weight of religion and social mores that impede its visibility in the public space. There are very significant gaps in the appropriation of terminology that qualifies these identities. In many institutions, for example, trans women have been described as gay men.

The State does not collect data or information on the realities experienced by LGTB persons. I have been informed of the resistance within the National Institute of Statistics to the idea of producing data in this regard. I also note the lack of recognition by the State of LGTB people and their realities of life in public policy. In addition to court judgments, virtually all pieces of data or information documenting the realities and challenges experienced by LGBT people are gathered and systematized by civil society organizations.

In particular, there is a general lack of awareness of the concepts of gender identity and expression as tools to describe and take into consideration the daily lives of Tunisian trans women and men whom I met and interviewed during my mission. Non-normative sexual orientations and gender identities are considered marginal in Tunisia, and while their visibility increased after the revolution, some feel that this visibility led to further rejection and marginalization at the personal level.

Even in cases where the challenges facing the LGBT community are recognized, it has been common to hear some state officials express the view that these issues are "negligible" compared to other challenges facing Tunisians, including rising unemployment among young graduates and related poverty issues, inequalities in development between different regions, economic difficulties and, more recently, the challenges of the COVID-19 pandemic. In this perspective, some have stated that there are few demands for more protection of LGBT people and that the decriminalization of homosexuality has not been included in the major demands of the Tunisian revolution and, in the face of the current realities of unemployment and economic stagnation, continue to be unimportant in the eyes of most citizens.¹¹⁵

The same source also noted that "[...] the lack of a specific approach and education for State agents often translates into prejudice and discrimination. All [his] interlocutors agreed on the need to know the reality experienced by LGBT people in order to be able to integrate an approach that takes into consideration their problems and allows them to live in dignity".¹¹⁶

In 2022 the French newspaper Liberation published an interview with Rania Arfaoui, an activist with the Tunisian LGBTQI organisation Mawoudin.¹¹⁷ Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

- There is real resistance from the political forces elected to the Assembly of People's Representatives (ARP) on the issue of the rights of queer and trans people. The parties present, whether Ennahdha or others, are against the decriminalisation of homosexuality or have no clear position on Article 230.
- And the left-wing parties?
- Even the left-wing parties are cautious on this issue, because they prioritise struggles: the priority is the socio-economic situation.¹¹⁸

¹¹⁵ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Introduction*

¹¹⁶ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Housing*

¹¹⁷ See Liberation, [*Newsletter "L" - Droits LGBTQ+ : "La Tunisie est un pays paradoxal"*](#), 6 June 2021

¹¹⁸ Liberation, [*Newsletter "L" - Droits LGBTQ+ : "La Tunisie est un pays paradoxal"*](#), 6 June 2021

IV. Treatment by Non-State Actors

a. Violence

Minority Rights Group International (MRG) published a report on the impact of Covid-19 and lockdown on the situations of minorities in Tunisia in 2021. Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

Minorities have been victims of attacks on their physical integrity in the form of physical or sexual violence, which increased during the period of general confinement, such as the assault suffered by queer feminist activist Rania Amdouni because of her gender identity. Indeed, the scourge of physical violence based on gender or sexual orientation has spread alarmingly with the general lockdown. According to figures published on 3 May 2020, more than 7,000 cases of violence had been reported to the toll-free number set up by the Tunisian Ministry for Women, the Family, Children and the Elderly. The interviews revealed that LGBTQI+ women were even more exposed to violence during lockdown, while the number of cases of violence recorded by associations working with the LGBTQI+ community attests to this increase in physical assaults, rapes and harassment against them as a result of the Tunisian state's policy of confinement.¹¹⁹

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterward that:

Being an assertive member of the LGBT community in Tunisia and being visible both to one's relatives and in the public space is perceived, by many, as a transgression of the social order and in particular of the social roles attributed to women and men that reflect an idea of male supremacy, patriarchy and reproductive sexuality in the context of marriage. Perceptions of gender are strictly defined in Tunisia, including how people are supposed to dress and act. Consequently, society punishes not only homosexual behaviour under article 230 of the Criminal Code, but all identities and expressions that are perceived by some as violating the "social pact" and an affront to customs and traditions. Effeminate men, male women, and trans women in particular are at high risk of violence due to their dress, appearance and mannerisms and are subject to increased surveillance due to the intersection of their identities. Many of the interlocutors interviewed referred to these existences as "abnormal", "asocial", and "amoral". As one member of civil society told us: "Assuming one's sexual orientation or gender identity is already in itself an act of resistance." Being visible as a member of the LGBT community is seen as a militant act that is a necessary step towards freeing itself from social norms that condemn minority sexual and gender identities.

This visibility nevertheless faces strong resistance within the family and society and is sanctioned by many who rely on the law, mores or religion to try to "put" the members of the community on the "right path".

¹¹⁹ Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021, p. 15 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

This results in high levels of institutional, psychological and physical violence, as well as discrimination at all levels.¹²⁰

The same source indicated specifically on the situation of Trans people in Tunisia that:

Trans people, through their gender expression and the difference between gender and their legal identity, operate in a hostile environment and are particularly vulnerable to stigma, discrimination and violence. They become obvious targets and face daily difficulties in accessing housing, education, employment, or health where they face humiliation, violence, and discrimination that results in great psychological distress and economic precariousness in particular. To protect themselves, they often avoid displaying themselves in public space and become invisible, left to their own ends, and marginalized.¹²¹

b. Online harassment

Minority Rights Group International (MRG) published a report on the impact of Covid-19 and lockdown on the situations of minorities in Tunisia in 2021.¹²² Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English: “During the general confinement, members of the LGBTQI+ community were victims of ‘revenge porn’ through the dissemination of sexual content without their consent, and associations also recorded cases of blackmail”.¹²³

Human Rights Watch (HRW) published a report on anti-LGBT digital violence early 2023 in which the organisation “documented 26 cases of online harassment, including doxxing—publishing personally identifiable information about an individual without their consent—and outing—exposing LGBT people’s identities without their consent—on public social media platforms in Jordan, Lebanon, and Tunisia”.¹²⁴

The same report found that:

The lack of justice and impunity for abuses, coupled with the immediate harms from the digital targeting and impunity for those harms, have had long-term mental health impacts on LGBT victims of digital targeting. LGBT people recounted the isolation they experienced months and even years after the instance of targeting, as well as their constant fear, post-traumatic stress, depression, and anxiety. Many

¹²⁰ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Social exclusion practices*

¹²¹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Social exclusion practices*

¹²² See Minority Rights Group International (MRG), [*Impact of Covid-19 on rights of minorities : consultations with civil society*](#), 1 December 2021 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹²³ Minority Rights Group International (MRG), [*Impact of Covid-19 on rights of minorities : consultations with civil society*](#), 1 December 2021, p. 15 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹²⁴ Human Rights Watch (HRW), [*“All This Terror Because of a Photo” Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*](#), 21 February 2023

LGBT people reported suicidal ideation as a result of their experiences with digital targeting, and some even reported attempting suicide. Most of the LGBT people targeted online said they stopped using digital platforms and deleted their social media accounts as a result of digital targeting, which only exacerbated their feeling of isolation.

These abusive tactics highlight the prevalence of digital targeting and the need for digital platforms and governments to take action to ensure LGBT people's safety online.¹²⁵

c. Discrimination

i. Access to housing

Minority Rights Group International (MRG) published a report on the impact of Covid-19 on the rights of minorities in Tunisia in 2021.¹²⁶ Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

Nor is access to housing guaranteed for people from the community, according to Beity's study, which notes "the presence of discriminatory experiences in the lives of LBT people in terms of abusive eviction from their place of residence because of their non-normative sexual orientation or gender identity".¹²⁷

ii. Access to work

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that:

A recent study highlighted a particularly high rate of unemployment among people with a university degree (74% compared to 15.1% in the population) due, in particular, to negative attitudes towards sexual and gender diversity, which create a hostile work environment. The study also highlights the economic precariousness of trans people whose monthly income is less than 100 TND. As mentioned above, trans people suffer from exacerbated discrimination due to the lack of legal gender recognition and access to gender-affirming treatments. This situation often pushes them to seek work in the informal economy and in particular sex work and they have therefore been hit hard by the pandemic, which has further aggravated their already precarious situation and their vulnerability to arrests for violating the curfew and/or confinement, in addition to other offences.¹²⁸

¹²⁵ Human Rights Watch (HRW), *"All This Terror Because of a Photo" Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*, 21 February 2023

¹²⁶ See Minority Rights Group International (MRG), *Impact of Covid-19 on rights of minorities : consultations with civil society*, 1 December 2021, p. 6 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹²⁷ Minority Rights Group International (MRG), *Impact of Covid-19 on rights of minorities : consultations with civil society*, 1 December 2021, p. 6 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹²⁸ United Nations Office of the High Commissioner for Human Rights (OHCHR), *Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*, 18 June 2021

Minority Rights Group International (MRG) published a report on the impact of Covid-19 on the rights of minorities in Tunisia in 2021.¹²⁹ Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

Every year, the data collected by the network of Anti-Discrimination Points confirms the persistence of violence and discrimination suffered by members of the LGBTQI+ community. Their right to work is also violated, with 43% of cases of inequality at work, intolerance, interference in private life or dismissal, solely sexual orientation.¹³⁰

iii. Specificities for LGBTQI individuals living in rural areas

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that:

[He] learned that asymmetries between urban and rural areas also impact the lived experience of LGBT people. A very large proportion of those interviewed during my mission came from rural areas and had moved to the city in search of environments where they could acquire a certain anonymity.¹³¹

iv. Specific hardships linked to socio-economic difficulties

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and noted among others that “The same pattern [as the pattern of targeting poor individuals rather than wealthy queer individuals in Lebanon] is seen in Tunisia, where interviewees have defined trans women are at greatest risk”.¹³²

The online media Rights Africa reported in April 2021 about the action of the Tunisian rights group Mawjoudin and its actions in support of LGBTQI Tunisians during the pandemic:

The impact of the COVID-19 pandemic has led to a great demand for the group’s counselling and other services, Mawjoudin states in its newsletter.

¹²⁹ See Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹³⁰ Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021, p. 6 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹³¹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, *Urban vs. Rural*

¹³² Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 47

“The virus has an impact on the world in general and on all groups, especially vulnerable groups in Tunisia, including the queer community, asylum seekers, immigrants, and women who live in a vulnerable situation,” the newsletter reads.

“The queer community has had difficulty coping with the sudden new circumstances in their homes. Their identities have been disintegrated. During the quarantine among family members who do not support them, they have been in a financially difficult situation and limited access to health and psychological services.”

Mawjoudin’s aid took many forms, including legal, medical, and psychological support, as well as direct financial support and housing and food aid for dozens of queer community members. It also partnered with other organizations providing aid during the pandemic to help community members receive additional support.¹³³

Minority Rights Group International (MRG) published a report on the impact of Covid-19 on the rights of minorities in Tunisia in 2021.¹³⁴ Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

LGBTQI+ people are regularly victims of homophobia and transphobia. During the period of confinement, they have been the target of hate campaigns and legal proceedings, compounded by extreme socio-economic insecurity resulting from the loss of their jobs and sources of income.¹³⁵

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterward that:

As in many contexts around the world, social exclusion mechanisms mean that the LGBT population is over-represented in the ranks of the poor. For example, all trans persons who responded a recent survey reported having an income of less than 100 TND per month. Poverty is the bedrock of a whirlwind of discrimination and violence that alienates from state services and increases their disadvantage when confronted with hostility from state agents.¹³⁶

v. Specific situation of LGBTQI+ individuals displaced to Tunisia

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterward that:

¹³³ Rights Africa, [Tunisian LGBT rights group provides vital services during pandemic](#), 14 April 2021

¹³⁴ See Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹³⁵ Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021, p. 15 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹³⁶ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, *Socio-economic status*

[He] was able to interact with several organizations serving LGBT people who were forced to leave their country. Among the main challenges identified are the insecurity of a system in which their existence is criminalized, and the lack of access to rapid resettlement processes.¹³⁷

76crimes published an article in March 2023 about attacks on African LGBTQI refugees in Tunisia:

From long before Saïed's speech, racist and homophobic attacks on black refugees have been occurring in Tunisia for years, as demonstrated by testimony that Working for Our Wellbeing collected from more than a dozen LGBT refugees. The refugees — two from Ivory Coast and the rest from Cameroon — cited multiple instances of homophobic and racist beatings, rapes, extortion and robbery by native Tunisians. In each case, Tunisian police were no help and the U.N. Office of the High Commission for Refugees (UNHCR) provided little or no assistance.¹³⁸

In March 2023, the news agency France 24 published an article reporting about the attack of a shelter in Tunis hosting LGBT refugees from sub-Saharan Africa by Tunisian anti-gay vigilantes.¹³⁹ Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

On the night of Thursday 23 February, a mob of men attacked the occupants of a home for refugees from the sub-Saharan LGBTQ community, in a district in the north of Tunis. Beatings, insults and stab wounds: the residents of the hostel say they experienced a night of terror. Around thirty people, including at least 6 with United Nations refugee cards, were arrested that evening. A few days earlier, on Monday 20 February, another home for LGBT refugees was similarly attacked in a district of Tunis city centre.[...]
France 24 Observateurs spoke to two refugees who were present when the attack took place on 23 February in a hostel in Ariana, on the outskirts of Tunis: "The landlord's son threatened us with eviction. The next day, he came back with an armed pack". [...]
"Instead of arresting the men who were attacking us, the police took us away". [...]
"The police tear up our refugee cards and call us fags". [...]
"Chiraz" (pseudonym) was rehoused in a shelter run by the United Nations High Commissioner for Refugees (UNHCR) on Tuesday 28 February with another trans- refugee from sub-Saharan Africa. The UNHCR's Tunisian office also provided medical care for the injured. "Brian" (pseudonym), another LGBT sub-Saharan refugee, was not so lucky. He was injured in the attack on 20 February and then again on 23 February, and is now homeless.¹⁴⁰

V. Treatment of LGBTQI+ Organizations and Human Rights Defenders

¹³⁷ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, *Migrants, refugees, asylum seekers*

¹³⁸ 76 crimes, [African LGBTQ refugees, seeking Europe, find terror in Tunisia](#), 14 March 2023

¹³⁹ See France 24, [In Tunis, two shelters for LGBT refugees from Subsaharan Africa attacked](#), 01 March 2023 [A Tunis, deux foyers de réfugiés LGBT subsahariens attaqués]

¹⁴⁰ France 24, [In Tunis, two shelters for LGBT refugees from Subsaharan Africa attacked](#), 01 March 2023 [A Tunis, deux foyers de réfugiés LGBT subsahariens attaqués]

a. Government recognition of LGBTQI+ NGOs

76 crimes reported in February 2020 that the same month, a Tunisian appeals court definitely rejected the government's bid to shut down the LGBT rights group Shams:

On Feb. 21, a Tunisian appeals court (the Court of Cassation) definitively rejected the government's bid to shut down the LGBT rights group Shams.

Shams (Arabic for "sun") now has full legal authorization to continue its advocacy work. [However, its founder and president, Mounir Baatour, remains the target of legal action. He recently fled to France to avoid prosecution.]

The government began its case against Shams by declaring that "Shams cannot continue its activities, which go against the traditions of Tunisians, who are Muslim. Islam prohibits these practices. also prohibited by Tunisian law, under Article 230 of the penal code."

That ruling was rejected in a lower court in February 2016. The government appealed, but lost again at the Court of Appeal of Tunis in May 2019.¹⁴¹

In December 2020, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), wrote in its annual report on the rights of homosexuals and the criminalisation of homosexual acts across the globe that in Tunisia in February 2020, the Tunisian Court of Cassation definitively rejected the government's latest known attempt to shut down the LGBT rights group Shams:

This should—in theory—mean that LGBTI- related objectives are not any more a legal ground for refusing registration to organisations working on sexual and gender diversity issues. However, the group's leader fled to France one month prior to the decision, after being charged with "blasphemy" over a post on Facebook and following a series of fatwas issued by local imams reportedly calling for his assassination. He declared in an interview that he would be willing to return to Tunisia if given police protection and if the blasphemy charge of [sic] is dropped.¹⁴²

In March 2021 the German Federal Office for Migration and Refugees (BAMF) reported that:

On 05.03.21, hundreds of persons protested against the imprisonment of Rania Amdouni, a democracy and LGBTIQ activist who was sentenced to six months in prison on charges of insulting the police. Amdouni is a member of the human rights group Damj, Tunisian Association for Justice and Equality, and had taken part in the protests in recent weeks. The police had published personal information about Amdouni on social media over several weeks, including her address, and had also made derogatory comments about her.¹⁴³

¹⁴¹ 76 crimes, Tunisia : [Appeals court supports LGBT activist group Shams](#), February 2020

¹⁴² International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), [State-Sponsored Homophobia - Global Legislation Overview Update 2020](#), December 2020, p. 173

¹⁴³ German Federal Office for Migration and Refugees (BAMF), [Briefing Notes](#), 8 March 2021

In March 2021, several associations and human rights organisations including ARTICLE 19 signed a joint appeal to release human rights defender Rania Al Amdouni, detained after filing a complaint against security force unions for online threats against her. The joint appeal stated notably:

All complaints that Al-Amdouni filed against her assailants have been frozen, including those deposited with the Central Inspectorate of the Ministry of Interior, and in return, she was prosecuted. In addition to this, the charge she faces is according to a crime that does not exist, since the case file was devoid of any complaint filed by a public official, which makes the crime lose one of its conditions.¹⁴⁴

For more information regarding this case see section I., [ii. Treatment in Detention Facilities](#) and [iii. Prosecutions and convictions under laws that are deployed against the LGBTQ+ community](#).

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that:

Decree-Law No. 2011-88 of 24 September 2011, on the organization of associations in Tunisia has allowed the emergence of a good number of organizations working on the defence of human rights in general and the rights of LGBT people in particular but the information received from Tunisian civil society indicates the existence of several obstacles to their work.

At the level of legal registration, there are indications that the procedure has become uncertain and that LGBT associations may not obtain registration if they openly indicate that they are working on the rights of LGBT people. Unable to register, associations cannot work in accordance with the legislation making their activity illegal. In the past, [he has] communicated my concerns to the Tunisian State regarding attempts to obstruct Sham's exercise of its freedom of association. These limitations constitute violations against Tunisia's commitments in the area of freedom of association, in particular through its ratification of the ICCPR.¹⁴⁵

In July 2022, Amnesty International published a press release on its website on the situation of human rights in Tunisia. Using an online translation tool, deepL, the following paragraph was translated from French into English:

In February 2022, the President also accused civil society organisations of serving foreign interests and declared his intention to ban "foreign funding". In addition, a restrictive draft law on associations, a version of which has been leaked, would, if passed, roll back many hard-won protections for freedom of association by amending Decree-Law 2011-80, which regulates civil society and guarantees civil organisations the right to exist and operate freely.¹⁴⁶

¹⁴⁴ ARTICLE 19, [Tunisia: Activist who reported online abuse by security forces must be released](#), 8 March 2021

¹⁴⁵ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021, *Obstacles to the work of human rights defenders*

¹⁴⁶ Amnesty International (AI), Tunisia. [The worrying decline in human rights must be reversed as a matter of urgency](#), July 2022 [Tunisie. Il est urgent d'inverser l'inquiétante régression des droits humains]

b. State treatment of LGBTIQ+ activists or those supporting their case or those perceived as such

The organisation Frontline Defenders published information about LGBTIQ activists arrested in Tunisia from 2020 to 2023:

22 January 2020

Trans woman human rights defender Frifta violently attacked by police

On 13 January 2020, woman human rights defender Frifta was violently attacked and subjected to electric shocks by three men including a police officer in Tunis. Since then, no action has been taken by the police to hold the perpetrators accountable.

5 February 2020

Death threats and smear campaign against woman human rights defender Rania Amdouni

Since late January 2020, woman human rights defender Rania Amdouni has been targeted with death threats and an intensified smear campaign linked to her peaceful human rights work.

Rights

9 March 2020

Intensified intimidation and surveillance of Badr Baabou

During the first week of March 2020, human rights defender Badr Baabou was subjected to intensified intimidation and surveillance by the police. His colleagues, friends and family were also harassed and questioned by the police.

11 December 2020

Charge against human rights defender Hamza Nasri

On 8 December 2020, the Tunisian police arrested human rights defenders Saif Ayedi and Hamza Nasri during a peaceful demonstration in front of the Tunisian parliament. The Public Prosecutor charged Saif Ayedi and Hamza Nasri with 'damaging properties'. On 10 December the two human rights defenders were conditionally released until their next hearing which has not yet been scheduled.

25 January 2021

Detention of human rights defender Hamza Nasri

On 21 January 2021, the Public Prosecutor ordered the conditional release of human rights defender Hamza Nasri.

On 18 January 2021, the Tunisian police arrested human rights defender Hamza Nasri following his participation in a peaceful demonstration against the deteriorating economic situation in Tunis. The Public Prosecutor accused Hamza Nasri of 'committing an act that violates the public morals'.

22 March 2021

Woman human rights defender Rania Amdouni released

On 17 March 2021, the Appeals Court in Tunis released woman human rights defender Rania Amdouni and fined her 200 Dinars (Approximately 60 Euros).

On 4 March 2021, the District Court of Tunis sentenced woman human rights defender Rania Amdouni to six months in prison. She has been convicted with "violating the general morals", "insulting a governmental employee", and "being drunk in public places" and is currently being detained at Manouba Women's Civil Prison.

2 November 2021

Prominent LGBTIQ+ rights defender attacked by police and security personnel
On 21 October 2021, human rights defender Badr Baabou was attacked in Tunis on his way home by a police officer in plain-clothes

and an internal security officer in uniform. On 25 October 2021, the human rights defender registered a complaint about the incident at the Public Prosecutors Office in the First Instance Court in Tunis.¹⁴⁷

76 crimes reported in January 2020 that “Mounir Baatour, the leader of the Tunisian gay rights group Shams, has fled to France for safety”.¹⁴⁸ The article further indicated that:

Before his decision to flee, Baatour had been a candidate in last year’s Tunisian presidential election. In Tunisia, his life was under threat from fatwas issued by anti-gay imams. He had also been charged with blasphemy for a post on Facebook.¹⁴⁹

In April 2020, the Middle East Institute (MEI) published an article on digital security among the Tunisian LGBTQI community based on an interview with Mawjoudin Queer Film Festival:

According to Mawjoudin, over 90 percent of cases made under Article 230 used digital evidence pulled from cell phones, laptops, or social media accounts. In response to the weaponization of digital platforms against the LGBTI+ community, activists have increasingly emphasized the implementation of digital security measures to keep the community safe.¹⁵⁰

In December 2020, the Inter Press Service News Agency (IPS) published an article by Sania Farooqui, a journalist who covered the Arab Spring from London in 2011 and wrote about the situation of the LGBT community in Tunisia ten years later:

Judicial harrassments and the rise in arrests under anti-sodomy laws, invoking sharia law in bid to shut down LGBT rights group in Tunisia has also been a growing concern. Attempts to shut down advocacy groups defending the rights of lesbian, gay, bisexual, transgender and intersex people is contrary to international law and standards.¹⁵¹

In February 2021, Human Rights Watch (HRW) reported on Tunisian police arresting and using violence against LGBTI activists during civilian protests that began many regions of Tunisia on January 15 2021, sparked by declining economic conditions and exacerbated by the pandemic:

Tunisian security forces have repeatedly targeted protesters, including lesbian, gay, bisexual, transgender, and intersex (LGBTI) activists at protests, Human Rights Watch said today. The targeting involved arbitrary arrests, physical assaults, threats to rape and kill, and refusing access to legal counsel. Human Rights Watch documented cases in which the police have singled out LGBTI activists for particular mistreatment at protests. At the same time, social media posts have harassed LGBTI activists, revealing their personal information including home addresses and phone numbers, and “outing” them. Individuals

¹⁴⁷ Front Line Defenders, [result from search with words #LGBT & #Tunisia](#), no date [last accessed 03 August 2023]

¹⁴⁸ 76 crimes, [Tunisian gay-rights leader flees to France for safety](#), January 2020

¹⁴⁹ 76 crimes, [Tunisian gay-rights leader flees to France for safety](#), January 2020

¹⁵⁰ MEI (Ryan Grace), [Digital security and the LGBTI+ rights movement in Tunisia](#), 22 April 2020

¹⁵¹ IPS News, [A Decade after the Arab Spring, Tunisia Fails to Keep up with the Process of Democratisation](#), 22 December 2020

also smeared them online based on their sexual orientation or gender identity and posted their photos with messages inciting violence against them.

“LGBTI activists who persist in protesting are terrified that security forces will single them out at protests, round them up, and abuse them with impunity,” said Rasha Younes, lesbian, gay, bisexual, and transgender (LGBT) rights researcher at Human Rights Watch. “Security forces have an obligation to protect the right of peaceful protest, not harass activists whose bold engagement has contributed to Tunisia’s reputation as a regional leader in its progress on human rights.[...]”

Human Rights Watch interviewed 10 LGBTI rights activists, who said they were abused by authorities in distinct incidents, 5 lawyers who represented some of the victims in these cases, and an activist who said he fled the country to escape police persecution. Human Rights Watch also reviewed online footage of apparent police violence, as well as statements by individuals and nongovernmental organizations, and visual media provided by victims documenting incidents of violence and online harassment. All activists interviewed said police verbally harassed them and threatened them with violence, including three threatened with rape and five threatened with death. Seven said security forces arbitrarily arrested them, and eight said they were harassed online. Nine said they were physically abused at protests or in arbitrary detention, and three said police intimidated them, followed them in the street, and searched for them in their neighborhoods, prompting them to relocate.

As a result of the online harassment, people interviewed said they felt they had to leave their homes and neighborhoods and delete their social media accounts. One activist said he fled the country after police arbitrarily detained and beat him, and his home address and phone number were posted online.”¹⁵²

In March 2021, HRW reported on the arrest of LGBTQI activist Rania Amdouni the same month, preceded by months of harassment by police officers:

Amdouni was leaving a restaurant in downtown Tunis on February 27 when a police officer in the street began verbally harassing her and ridiculing her based on her gender expression, which prompted her to go to the nearest police station and file a complaint. “Amdouni has been facing consistent harassment by police in the street and online for months, which caused her to suffer severe mental health consequences and break down,” Hanchiri said Mohammed Amin Hdeiji, a lawyer who accompanied Amdouni to the 7^{eme} police station on February 27, told Human Rights Watch that police officers in the station ridiculed Amdouni’s appearance and harassed her based on her presumed sexual orientation. “Eight police officers surrounded her and repeatedly insulted her, and one told her, ‘You are a homosexual, you will not win against us, and we will not allow you to defame police officers,’” Hdeiji said. [...]

In an interview in February before her arrest, Amdouni told Human Rights Watch that since January she has been subjected to online harassment, bullying, and threats of violence, including death and rape. Human Rights Watch reviewed many of the Facebook posts, including by individuals who identified themselves as police officers, harassing Amdouni based on her gender expression and presumed sexual orientation. A member of parliament, Seif Eddine Makhoul, ridiculed her on his personal Facebook page based on her gender expression. Amdouni has since deleted her social media accounts. On January 11, the police searched for Amdouni near her residence, and asked neighbors if she was there, which prompted her to leave her neighborhood and hide out, she said: “I don’t feel safe, even in my apartment. Police came looking for me in my neighborhood. My life is threatened, and my mental health is deteriorating. People are staring at me in the street and harassing me online.” The right to privacy and

¹⁵² Human Rights Watch (HRW), [Tunisia: Police Arrest, Use Violence Against LGBTI Activists](#), 23 February 2021

nondiscrimination are reflected in Tunisia's 2014 constitution under article 24 and article 21, respectively. However, the absence of accountability and reliable complaint systems, as well as the lack of nondiscrimination legislation based sexual orientation and gender identity under domestic law, limit LGBT people's access to redress, creating an environment in which police may abuse them with impunity, Human Rights Watch said.¹⁵³

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that:

LGBT activists and human rights defenders of LGBT people are particularly targeted and regularly subjected to harassment, death threats and attacks because of their work to promote the rights of LGBT people. [He has] sent several communications to the Tunisian State in the past expressing my concerns in this regard.

[He is] concerned about an intensification of repression against LGBT human rights organisations, including Damj, and an increase in cases of violations against members of the LGBT community following their participation in demonstrations calling for a better social policy and denouncing repression and police brutality. Their exposure in the media, social networks and on the street has resulted in increased surveillance and police harassment. Several members of the Damj association have been subjected to arbitrary arrest and detention, harassment, intimidation, online defamation and incitement to violence, including death threats and rape, and physical and verbal attacks while exercising their rights to peaceful assembly and freedom of expression in support of the LGBT community and the feminist movement.

[He] also received many testimonies during [his] visit of violation of the right to privacy and confidentiality of personal data from the police unions. As part of the events at the beginning of this year, they also made hate speech and calls for violence against several LGBT people on social media by exposing their identities, addresses and posting photos. These facts have exposed LGBT people to a flood of hate on social media. [He] regret[s] the lack of judicial sanctions against these serious violations of the right to privacy and the impunity that the police unions appear to enjoy.¹⁵⁴

The same source noted that:

The information available to us also indicates that there is a particular obstacle to the work of LGBT human rights defenders through random searches of their premises and the confiscation of duly registered work equipment of organisations. Information available to the mandate indicates that even associations working on the STD and HIV prevention component are likely to face criminal prosecution when working with key populations.

¹⁵³ Human Rights Watch (HRW), [Tunisia : Harassment, Arbitrary Detention of LGBT Rights Activists](#), 9 March 2021

¹⁵⁴ United Nations Office of the High Commissioner for Human Rights (OHCHR), [Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity](#), 18 June 2021

I am particularly concerned about the number of LGBT activists who were arrested during the protests that took place in early 2021 in Tunisia. There is also concern about smear and hate speech and *outing* campaigns, particularly on social networks, particularly the pages of police unions.¹⁵⁵

In its newsletter about the week in LGBTI news (from 22-28 October 2021), ILGA World published the following information from Tunisia:

In Tunisia, LGBT associations are still under attack: during the past week alone, the president of Damj was beaten by police officers, while the president of Shams reported being sentenced to a year of imprisonment for sharing a post on Facebook.¹⁵⁶

Human Rights Watch published early 2023 the results of a study on anti-LGBT digital violence, it reported that:

In Tunisia, the government has used digital targeting to crack down on LGBT organizing and to arrest and persecute individuals. The accounts documented in this report demonstrate the severity of digital targeting of LGBT people in each country. The cases that are state-led apparently reflect government tactics to persecute LGBT people.¹⁵⁷

The same report indicated that:

In Tunisia, in addition to consequences similar to those in Lebanon [government digital targeting has resulted in arbitrary arrests, reliance on improperly obtained personal digital information in prosecutions, and blackmail of LGBT people], digital targeting has resulted in government crackdowns on LGBT organizing.¹⁵⁸

VI. Availability of State Protection

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and found that “It is important to note that few lawyers and legal professionals work on LGBTQ cases in these countries, likely due to the stigma, risks, and lack of funding associated with representing such cases”.¹⁵⁹

The same source further reported:

¹⁵⁵ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Obstacles to the work of human rights defenders*

¹⁵⁶ International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), [*The week in LGBTI News \(22-28 October 2021\)*](#), 29 October 2021

¹⁵⁷ Human Rights Watch (HRW), [*“All This Terror Because of a Photo” Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*](#), 21 February 2023

¹⁵⁸ Human Rights Watch (HRW), [*“All This Terror Because of a Photo” Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*](#), 21 February 2023

¹⁵⁹ Article19/Afsaneh Rigot, [*Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia*](#), 7 March 2022, p. 12

Tunisia has several laws that should, in theory, provide procedural guarantees. Article 199 of the Code of Criminal Procedure (CCP) states that “any acts or decisions contrary to the ... fundamental rules of procedure and the legitimate interest of the defense, are void.” Equally, Article 155 of the CCP serves to render illegally gathered reports and confessions “null and void.” However, as confirmed by interviewees, as well as in the findings of a report by Human Right Watch, it is rare for judges to enforce these provisions. In the 9 Tunisian case files reviewed for this report, all included breaches of both Articles 199 and 155, and in none of these cases did the ruling reflect that the judge had invalidated evidence on that basis.

When the interviewees were asked about warrants in Tunisia, the answer came in unison: “Impossible, impossible, impossible. Not even once. [It] has never happened in an LGBTQ case that they actually waited to get a warrant to have access to this information”.¹⁶⁰

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that “There is no legal protection against discrimination based on sexual orientation and gender identity in Tunisia”.¹⁶¹

The same source reported:

[He is] deeply grateful to the civil society that supports LGTB people in Tunisia, and to the LGBT people who shared their life experiences with me during the visit. I was able to speak with dozens of them, who confirmed to me that despite the general legal protections for dignity and against discrimination and harassment, LGBT people in Tunisia face widespread violence, including death threats and rape.¹⁶²

The same source reported specifically on lesbian, bisexual and trans women that:

Lesbian, bisexual and trans women are not explicitly recognized in the formulation of public policies. I note, however, of the statement by the Minister for Women, The Family and Older Persons to the effect that the formulation of the Ministry's policies on social action and protection extends to “all women”. In practice, however, I observed that such inclusive approaches do not necessarily extend to sexual or gender diversity. In some cases, the obstacle is legal (Law 58 limits protection against violence against women when the perpetrator is a man, and article 3 defines a woman as a female) and in some cases it is political, such as the lack of legal recognition of trans women as subjects of protection by the Ministry's regional centres.¹⁶³

¹⁶⁰ Article19/Afsaneh Rigot, [*Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia*](#), 7 March 2022, p. 61

¹⁶¹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Social exclusion practices*

¹⁶² United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *LGBT, queer and gender diverse people in Tunisia*

¹⁶³ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *LGBT, queer and gender diverse people in Tunisia*

The US Department of State wrote in its 2022 Country Report on Tunisia:

Violence against LGBTQI+ Persons: Police and other government agents perpetrated and tolerated violence against LGBTQI+ individuals or those reporting such abuse. LGBTQI+ individuals faced discrimination and violence, including threats of death and rape and societal stigma; fear of prosecution discouraged individuals from reporting violence and threats. LGBTQI+ individuals reported discrimination and harassment when seeking employment, health services, education, community interactions and interactions from police based on their identity. [...]

The law does not prohibit discrimination based on sexual orientation, gender identity or expression, or sex characteristics and does not recognize LGBTQI+ individuals, couples, or their families. [...]

Involuntary or Coercive Medical or Psychological Practices Specifically Targeting LGBTQI+ Individuals: So-called conversion therapy is not banned.¹⁶⁴

a. Investigation and Prosecution of Crimes Against LGBTQI+ Individuals

In its report on the state of the World's Human Rights 2020/2021, Amnesty International wrote in the section on Tunisia:

On 5 August, a police officer verbally abused Rania Amdouni, a feminist LGBTI rights activist and President of the association Chouf Minorities, in the centre of downtown Tunis. This led to a verbal altercation between the police officer and Rania Amdouni which attracted attention from passers-by who then attacked her and three of her friends. The police stood by, failing to intervene to stop the attack and inciting the violence by using homophobic and transphobic insults. The four pressed charges and an investigation was opened. Although the identity of the police officers involved was known, they were not suspended or arrested following the investigation.¹⁶⁵

In December 2020, the International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), wrote in its annual report on the rights of homosexuals and the criminalisation of homosexual acts across the globe that as of November 2020, the Tunisian constitution did not provide protection to LGBT individuals, neither were they protected from discrimination in employment, from hate crimes, from incitement to hate crimes. Furthermore Tunisia does not ban so-called 'conversion therapies'. Same-sex marriages are not recognized, neither are civil unions, joint adoption or second parent adoption for same-sex parents.¹⁶⁶

¹⁶⁴ U.S. Department of State, [Tunisia 2022 Human Rights Report](#) –, 23 February 2023, pp. 31-32, *Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation, Gender Identity or Expression, or Sex Characteristics*

¹⁶⁵ Amnesty International (AI), [Amnesty International Report 2020/2021 – The state of the world's human rights – Tunisia 2020](#), 7 April 2021

¹⁶⁶ International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), [State-Sponsored Homophobia - Global Legislation Overview Update 2020](#), December 2020, p. 326, – *Table The World at a Glance - Tunisia*

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and stated notably about “Police stations and opportunistic prosecutions”:

In Tunisia, interviews [with 6 lawyers and one case worker conducted for the study] and case files can be used to show that the accused often comes into contact with the police because they have been the victim of a crime. A lawyer noted that “your phone was stolen then you go to the police station to make your report and then [if you] look [feminine] or gay, they make the arrest.” The pretext may seem thin, but another interviewee said that such cases “usually [pass] and they are prosecuted through Article 230.[...]

In Tunisia, 3 of 9 of the cases reviewed are these such opportunistic cases where one or more of the accused made contact with the authorities to report that they had been the victim of violence and assault. When the investigations of their devices, persons, and private residences uncovered evidence of their queer identities, they were charged under Article 230, along with the perpetrators of the violence. The victims of violence were not spared when evidence was identified regarding their sexuality. These types of cases are so prevalent that in one of the interviews, the lawyer had one come in just the day prior:

“just yesterday [an incident] like this happened. Someone got beaten up, raped, and aggressed by someone. They went to the police to actually let them know that they have been physically, sexually aggressed and instead of taking his side they built up a case against him [...] because the guy actually shared everything about the application [Grindr], how this led [to meeting] this person, etc. thinking that the police is actually going to help but instead obviously they built a case against him.”

Numerous examples are given of Section 230 cases that commenced during a murder investigation, which was then rerouted into LGBTQ-related charges. “They gathered the friends of the person who was killed and during the testimony the inadvertently said that they know each other from this gay club that they go to and because they’re gay, etc.. So a parallel prosecution was open for them being gay.” Even if the murder charge is dropped, the LGBTQ charge remains: “Like in one case there was a murder case and the person, one of the persons who was investigated... he said that he was gay so he was transferred in front of the criminal court because he was transferred along with the file of the murder even though he was not charged with murder case.”

Unfortunately, this can lead to a chilling effect within the queer community in which LGBTQ persons avoid law enforcement whenever possible, including to report crimes committed against them. This leaves many even more at risk of abuse and violence: “[queer people] are sometimes reluctant to go and report something to the police whenever they have been attacked or they have been [robbed] or something like that.” It seems in the best-case scenario, “the police do not take the case of the complaint seriously,” and more commonly, “they can arrest him or her by forcing him to give his/her phone and start to search for evidence in order to condemn him.” The more marginalized the person or the community, the more likely the repercussions are to be harsh and problematic: for example, refugees who must present themselves to certain precincts or general security under their immigration protocols are at the greatest risk. One lawyer in Lebanon noted that, “Many Syrians [go] to the general security to renew their permits ... They come in contact with a court and their phones are confiscated so they would look into their phones, and they would see nude pictures or conversations so they would start the process as well.”¹⁶⁷

¹⁶⁷ Article19/Afsaneh Rigot, [*Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia*](#), 7 March 2022, p. 85

Minority Rights Group International (MRG) published a report on the impact of Covid-19 and lockdown on the situations of minorities in Tunisia in 2021.¹⁶⁸ Using an online translation tool, [deepl.com](https://www.deepl.com), the following information was translated from French into English:

The pandemic has worsened minorities' access to justice, which was already almost non-existent for people belonging to the LGBTQI+ community. Indeed, the complaints lodged on behalf of victims by associations were not followed up. For example the complaint lodged by trans activist and president of the president of the Outcasts organisation, Ahmed Ettounsi, after he was subjected to physical violence by a group of unidentified individuals, who attacked him at his work his workplace in Tunis, then beat him up and forced him to publicly disclose his gender identity. These complaints are still pending to this day, due in part to the backlog of courts.¹⁶⁹

No further reports were found covering or reporting on the investigation and prosecution of crimes against LGBTQI+ individuals.

b. Fear of Reporting to Authorities

The researcher Afsaneh Rigot conducted a study for ARTICLE 19 in 2021 on the use of digital evidence by state actors to prosecute LGBTQI individuals in Egypt, Lebanon and Tunisia and found that:

A repercussion of such coercive techniques by police [to obtain LGBTQ 'suspects' phone password upon arrest] is that victims may internalize the threats. When prosecuted, they may be reluctant to challenge the authorities' conduct as part of their defense, seeing it as only deepening their involvement in a process that may threaten their livelihood and relationships. Due to the mounting risks, many victims will avoid further interactions with the police or law enforcement, meaning that they may decide to withdraw accusations of police abuses.¹⁷⁰

From 8 to 18 June 2021, at the invitation of the State of Tunisia, the UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, Victor Madrigal-Borloz, visited Tunisia and reported afterwards that:

Beyond the possibility of conviction, criminalisation creates a de facto situation of self-exclusion of persons on the basis of their sexual orientation and gender identity from public services or access to justice because of the fear of being accused on the basis of Articles 230 or 226 and 226a. Several reports indicate a trend towards a reversal of the situation with regard to LGBT victims who become accused on the basis of these articles.[...]

¹⁶⁸ See Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹⁶⁹ Minority Rights Group International (MRG), [Impact of Covid-19 on rights of minorities : consultations with civil society](#), 1 December 2021, p. 15 [Impact de la Covid-19 sur les droits des minorités et des populations minorées : consultation avec la société civile]

¹⁷⁰ Article19/Afsaneh Rigot, [Digital Crime Scenes: The Role of Digital Evidence in the persecution of LGBTQ People in Egypt, Lebanon, and Tunisia](#), 7 March 2022, p. 68

Most victims do not file complaints for fear of being prosecuted for homosexuality, indecent assault or public indecent assault. Those who do so reported particularly traumatic episodes of humiliation, insults, violence and sometimes even criminalization.[...]

Difficulty or even impossibility of access to justice: when they are victims of violations of their rights, LGBT people often refrain from filing a complaint for fear of becoming perpetrators. Several people have been incriminated for homosexuality, indecent assault, insulting a public official, prostitution or public indecent assault following the filing of a complaint.

Once they are "registered" as a member of the community, LGBT people find themselves caught in a spiral that makes their access to justice even more difficult as agents in the criminal justice chain transpose dominant social and moral prejudices to punish their identity.¹⁷¹

Human Rights Watch published early 2023 the results of a study on anti-LGBT digital violence in Egypt, Jordan, Iraq, Lebanon and Tunisia, and found that:

These five governments in the region are also failing to hold private actors to account for their digital targeting of LGBT people. Most LGBT people interviewed for this report said that they would not report a crime to the authorities, either because of previous attempts in which the complaint was dismissed or no action was taken or because they felt they would be blamed for the crime due to their non-conforming sexual orientation, gender identity, or expression. As mentioned above, six people who reported being extorted to the authorities ended up getting arrested themselves.¹⁷²

¹⁷¹ United Nations Office of the High Commissioner for Human Rights (OHCHR), [*Preliminary observations on the visit to Tunisia by the Independent expert on protection against violence and discrimination based on sexual orientation and gender identity*](#), 18 June 2021, *Institutional violence*

¹⁷² Human Rights Watch (HRW), [*"All This Terror Because of a Photo" Digital Targeting and Its Offline Consequences for LGBT People in the Middle East and North Africa*](#), 21 February 2023